

National Energy
Board



Office national
de l'énergie

LETTER DECISION

File OF-Fac-Gas-T211-2014-02 01
2 June 2015

Ms. Stephanie Brown
Regulatory Project Manager
TransCanada PipeLines Limited
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Calgary, Alberta T2P 5H1
Facsimile 403-920-2347

Ms. Rosemary Stevens
Senior Legal Counsel
TransCanada PipeLines Limited
450-1 Street S.W.
Calgary, Alberta T2P 5H1
Facsimile 403-920-2310

Dear Ms. Brown and Ms. Stevens:

**Hearing Order GHW-001-2014
TransCanada PipeLines Limited (TransCanada)
Application for the King's North Connection Pipeline Project (Project)
Decision and Order with Reasons to Follow**

On 15 August 2014, TransCanada applied to the National Energy Board (NEB or Board) for an Order from the Board granting approval to construct and operate the Project pursuant to section 58 of the National Energy Board Act (NEB Act). In its application, TransCanada also requested exemptions from paragraph 30(1)(a) and section 31 of the NEB Act.

In a letter dated 1 October 2014 the Board confirmed that the application was complete and set the time limit for the Board to issue an order or dismiss the application. On 13 November 2014 the Board issued hearing order GHW-001-2014 setting the application down for a written hearing. Seventeen intervenors and four commenters participated in the hearing.

The Board considered TransCanada's application, as well as submissions by all participants on the record for the GHW-001-2014 hearing. The Board has decided to release its decision with reasons to follow. It is the Board's view that there is a benefit to the hearing participants, the natural gas market and the public by having a timely decision. The Board's written reasons will be released on or before 6 August 2015.

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The Board notes that TransCanada made numerous commitments relating to project matters such as construction scheduling, land agreements and permits and authorizations. Adherence to and reporting on these commitments is set out in Conditions 2 and 3 in the Order. Intervenor also proposed a number of conditions relating to compensation, however, matters of compensation are not within the Board's authority to consider. Compensation claims for land use or for damage resulting from construction are handled by the federal Minister of Natural Resources. When a landowner and a pipeline company cannot agree on compensation for lands that the company has acquired or damaged, either party may apply to the Minister of Natural Resources to receive the services of a negotiator, or to have the dispute settled by arbitration.

The Board issues Order XG-T211-027-2015 (Order), and associated conditions pursuant to section 58 of the NEB Act, the effect of which is to approve the Project. A copy of the Order and its Schedule A, which together, outline the specifics of the Project as approved, is attached. The Board grants TransCanada's request for exemption from the provisions of paragraph 30(1)(a) and section 31 of the NEB Act.

TransCanada is directed to notify intervenors to the GHW-001-2014 proceeding when filings pursuant to Board conditions 3, 5, 7 and 9 are made. In addition, intervenors can request TransCanada to provide them notification of any other filing required by the Board under Order XG-T211-027-2015. The Board also reminds TransCanada that it must apply for Leave to Open pursuant to section 47 of the NEB Act, prior to the facilities being placed in operation.

The Board recognizes that hearings often raise matters that affect people, the environment, commercial interests and municipal and other government authorities. The Board acknowledges and expresses its appreciation for the quality of the submissions that were made by the Parties, including at the technical conference. These submissions were very helpful to the Board in making its decisions.

The Board directs TransCanada to serve a copy of this letter, the attached Order and its Schedule A on all interested parties.

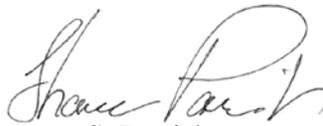
The foregoing constitutes our Decision in respect of the Project heard by the Board in the GHW-001-2014 proceeding.

A handwritten signature in black ink, appearing to be 'K. M. Bateman', written in a cursive style.

K. M. Bateman
Presiding Member

A handwritten signature in black ink, appearing to be 'L. Mercier', written in a cursive style.

L. Mercier
Member

A handwritten signature in black ink, appearing to be 'S. Parrish', written in a cursive style.

S. Parrish
Member

Calgary, Alberta
June 2015

Attachments

c.c. All parties to GHW-001-2014



ORDER XG-T211-027-2015

IN THE MATTER OF the *National Energy Board Act* (NEB Act) and the regulations made thereunder; and

IN THE MATTER OF an application made by TransCanada PipeLines Limited (TransCanada), pursuant to section 58 of the NEB Act, dated 15 August 2014, filed with the National Energy Board (Board) under File OF-Fac-Gas-T211-2014-02 01.

BEFORE the Board on 1 June 2015.

WHEREAS the Board received an application from TransCanada, pursuant to section 58 of the NEB Act, dated 15 August 2014 and amended to construct and operate the King's North Connection Pipeline Project (Project) between Enbridge's Albion Station expansion and TransCanada Line 200-2 pipeline in the Greater Toronto area of southern Ontario at an estimated cost of \$227 million;

AND WHEREAS TransCanada filed additional evidence, responses to information requests and made commitments in additional filings dated 22 December 2014, 29 January 2015, 11 March 2015, 19 March 2015, 10 April 2015, 1 May 2015 and 14 May 2015;

AND WHEREAS TransCanada requested exemption from the provisions of paragraph 30(1)(a) and 31 of the NEB Act,

AND WHEREAS the Board held a written public hearing, including written evidence, letters of comment, information requests, a technical conference and written argument in respect of the Project pursuant to Hearing Order GHW-001-2014;

AND WHEREAS information about the Project is set out in Schedule A, attached to and forming part of this Order;

AND WHEREAS the Board has had regard to all considerations that are directly related to the Project and relevant, including environmental matters, pursuant to Part III of the NEB Act;

AND WHEREAS the Board has examined the application and related submissions and considers it to be in the public interest to grant the following relief;

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IT IS ORDERED that, pursuant to section 58 of the NEB Act, the applied-for Project, as specified in Schedule A, is exempt from the provisions of paragraph 30(1)(a), and section 31 of the NEB Act. The effect of this exemption order is to approve the Project subject to the following conditions:

General

1. Condition Compliance

TransCanada shall comply with all of the conditions contained in this Order, unless the Board otherwise directs.

2. Project Design, Location, Construction, and Operation

TransCanada shall cause the approved Project to be designed, located, constructed, installed, and operated in accordance with the specifications, standards and other information referred to in its application or as otherwise agreed to during the hearing or in its related submissions.

3. Commitments Tracking Table

TransCanada shall file with the Board and post on its company website, in French and English, at least 30 days prior to commencing construction, a Commitments Tracking Table listing all commitments made by TransCanada in its application or in its related submissions, or during the GHW-001-2014 proceeding in relation to the Project, including reference to:

- a) the documentation in which reference to the commitment is made (for example: the application and subsequent filings; responses to information requests; the transcript reference; any permit, authorization or approval requirements; condition filings);
- b) the accountability for implementing each commitment; and
- c) the timelines associated with the fulfillment of each commitment.

4. Implementation of Environmental Protection

TransCanada shall implement or cause to be implemented all of the policies, practices, programs, mitigation measures, recommendations and procedures for the protection of the environment included in or referred to in its application or as otherwise agreed to during the hearing or in its related submissions.

Prior to Construction (Including Clearing or Ground-breaking Activities)

5. Heritage and Archaeological Resources Condition

TransCanada shall file with the Board, at least 30 days prior to the commencement of construction activities:

- a) a copy of the correspondence received from the provincial authority(ies) responsible for heritage resources confirming that TransCanada has obtained all of the required heritage and archeological resource permits and clearances; and

- b) a statement on how TransCanada intends to implement any comments or recommendations contained in the permits and clearances referred to in paragraph a).

6. *Environmental Protection Plan, (EPP)*

TransCanada shall file with the Board for approval, at least 45 days prior to commencing construction, a final and updated project-specific EPP, including Environmental Alignment Sheets. The EPP shall describe all environmental protection procedures, and mitigation and monitoring commitments, as set out in TransCanada's application, subsequent filings, evidence collected during the hearing process, or as otherwise agreed to during the hearing and in its related submissions. The EPP shall include

- a) any environmental mitigation or monitoring as required under conditions of permits issued by the Ontario Ministry of Natural Resources and Forestry;
- b) site-specific mitigation for the Western Chorus Frog and Little Brown Myotis;
- c) updated Environmental Alignment Sheets; and
- d) current drawings of typical construction practices.

7. *Construction Schedule*

TransCanada shall file with the Board, at least 14 days prior to commencing construction, a detailed construction schedule(s) identifying major construction activities. TransCanada shall notify the Board of any modifications to the schedule(s) as modifications occur.

8. *Manuals and Programs*

TransCanada shall file with the Board, within the time specified for each manual, plan and program, the following:

- a) Construction Safety Manual – 14 days prior to commencing construction;
- b) Field Emergency Preparedness and Response Plan – 14 days prior to commencing construction;
- c) Confirmation that a Security Management Plan for the construction of the Section 58 Facilities, pursuant to the *National Energy Board Onshore Pipeline Regulations* and CSA Z246.1, has been developed – 14 days prior to commencing construction, and
- d) Field Pressure Testing Program – 14 days prior to pressure test.

During Construction

9. *Construction Progress Report*

TransCanada shall file with the Board at the middle and end of each month, construction progress reports for the Section 58 Facilities. The reports shall include the following: information on the activities carried out during the reporting period; any environmental, safety and security issues and issues of non-compliance; and the measures undertaken for the resolution of each issue and non-compliance.

10. Alternative Watercourse Crossing

- a) TransCanada shall, if it undertakes any contingency crossing method as an alternative to its proposed trenchless watercourse crossing method, confirm with the Board that the contingency crossing method will be conducted in accordance with Fisheries and Oceans Canada's Measures to Avoid Causing Harm to Fish and Fish Habitat; or

For those watercourse crossings that:

- b) do not require a *Fisheries Act* paragraph 35(2)(b) Authorization, TransCanada shall file at least 30 days prior to the undertaking of the contingency crossing method:
- i. a summary of any changes to the crossing method and the reasons for those changes, potential effects of the changes, and any newly proposed mitigation measures;
 - ii. copies of all correspondence from regulatory authorities concerning the changes; and
 - iii. an assessment of the fish and fish habitat present at the crossing location and the effects to fish and fish habitat.
- c) may require a *Fisheries Act* paragraph 35(2)(b) Authorization, TransCanada shall file at least 60 days prior to the undertaking of the contingency crossing method:
- i. a summary of any changes to the crossing method and the reasons for those changes, potential effects of the changes, and any newly proposed mitigation measures;
 - ii. copies of all correspondence from regulatory authorities concerning the changes;
 - iii. an assessment of the fish and fish habitat present at the crossing location and the effects to fish and fish habitat; and
 - iv. a draft *Fisheries Act* application package.

11. Complaint Tracking

From commencement of construction to five years following the commencement of operations, TransCanada shall, for audit purposes, create and maintain records that chronologically track complaints by landowners, including municipal and regional governments, relating to the Section 58 Facility. The complaint tracking records shall include:

- a) The date the complaint was received;
- b) The form in which the complaint was received (for example, telephone, mail, email, or other communication methods that may evolve over time);
- c) The date and summary of all subsequent telephone calls, visits, correspondence, site monitoring/inspections, follow-up reports and other related documentation;
- d) Updated contact information for all persons involved in the complaint;
- e) A detailed description of the complaint; and
- f) Any further actions to be taken or an explanation why no further action is required.

Post-Construction and Operations

12. Conditions Compliance by a Company Officer

Within **30 days of the date that the approved Section 58 Facilities are placed in service**, TransCanada shall file with the Board a confirmation, by an officer of the company, that the approved Section 58 Facilities were completed and constructed in compliance with all applicable conditions in this Order.

If compliance with any of the applicable conditions cannot be confirmed, the officer of the company shall file with the Board details as to why compliance cannot be confirmed. Any filing required by this condition shall include a statement confirming that the signatory to the filing is an officer of the company.

13. Post-construction monitoring reports

On or before 31 January after each of the first, third and fifth complete growing seasons following completion of final cleanup of the Project, TransCanada shall file with the Board, a post-construction environmental monitoring report that:

- a) Describes the methodology used for monitoring, the criteria established for evaluating success and the results found;
- b) Identifies the issues to be monitored, including but not limited to unexpected issues that arose during construction, and their locations (for example, on a map or diagram, in a table);
- c) Describes the current status of the issues (resolved or unresolved), any deviations from plans and corrective actions undertaken;
- d) Assesses the effectiveness of the mitigation (planned and corrective) measures applied against the criteria for success;
- e) Provides proposed measures and the schedule that TransCanada would implement to address ongoing issues or concerns.

The report shall address, but not be limited to, the issues pertaining to soils, weeds, watercourse crossings, wetlands, and species at risk.

14. Sunset Clause

Unless the Board otherwise directs prior to 2 June 2016, this Order shall expire on 2 June 2016, unless construction in respect of the Section 58 Facilities has commenced by that date.

NATIONAL ENERGY BOARD

Original signed by L. George for

Sheri Young
Secretary of the Board

SCHEDULE A
National Energy Board Order XG-T211-027-2015

TransCanada PipeLines Limited
Application dated 15 August 2014
assessed pursuant to section 58 of the *National Energy Board Act*

King's North Connection Pipeline Project
File OF-Fac-Gas-T211-2014-02 01

Pipeline Specifications – King's North Connection Pipeline

| | |
|-----------------------------------|---|
| Project Type | New construction |
| Location | Greater Toronto Area of Southern Ontario Connect Enbridge Albion Station to TransCanada Line 200-2 |
| Approximate Length | 11 km |
| Outside Diameter | 914.4 mm (NPS 36) |
| Minimum Wall Thickness | 15.7 mm or greater |
| Pipe Material | Carbon steel |
| Pipe Material Standard | CSA Z245.1 |
| Pipe Grade | Grade 483, X70 |
| Pipe Manufacture Process | Electric resistance welded / Spiral welded / Seamless / etc. |
| External Coating Type | Fusion-bond epoxy |
| Maximum Operating Pressure | 6 450 kPa |
| Product | Non-Sour Natural Gas |