



**EB-2010-0241**

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*,  
S.O. 1998, c. 15, (Schedule B) pursuant to Section 90(1);

**AND IN THE MATTER OF** an application by Enbridge Gas  
Distribution Inc. for an Order granting leave to construct a  
natural gas pipeline in the City of Mississauga and in the  
City of Brampton in the Region of Peel.

**BEFORE:** Karen Taylor,  
Presiding Member

### **VARY ORDER**

Enbridge Gas Distribution Inc. (“Enbridge” or the “Applicant”) filed an application with the Ontario Energy Board dated September 30, 2010, under section 90 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B (“Act”) for an order granting leave to construct approximately 270 metres of 323.9 millimetre (12 inch) diameter extra high pressure steel pipeline (the “pipeline”) to accommodate the proposed grade separation of Torbram Road and the Weston Subdivision railway tracks in the City of Mississauga and the City of Brampton in the Region of Peel. The Board assigned the application file number EB-2010-0241.

The Board issued a Notice of Application and Hearing on November 2, 2010. Enbridge served the Notice as directed by the Board. No party requested participation in this proceeding.

The Board proceeded by way of a written hearing as scheduled in Procedural Orders No. 1 and No. 2 issued on December 2, 2010 and December 13, 2010 respectively. Board Staff filed interrogatories on December 8, 2010. Enbridge responded on December 16, 2010. Board Staff filed written submissions on December 23, 2010. Board Staff supported the application and proposed conditions of approval should the Board approve the application. Enbridge’s reply submission was filed on December 30,

2010. In its reply submission Enbridge stated that it had reviewed the draft conditions of approval suggested by Board Staff and did not have any concern with such conditions being included in the granting of leave to construct. This completed the record of the proceeding.

On January 20, 2011 the Board granted Enbridge leave to construct the pipeline subject to the terms and conditions (Conditions of Approval) set out in Leave to Construct Order. The Board's Condition of Approval 1.2 provided that Enbridge should commence construction by December 31, 2011. The wording of the Condition 1.2 is as follows:

“Unless otherwise ordered by the Board, authorization for Leave to Construct shall terminate December 31, 2011, unless construction has commenced prior to that date.”

On October 11, 2011, Enbridge informed the Board that it planned to start construction on October 24, 2011.

On November 9, 2011 the Board received a request from Enbridge to extend the authorization to commence construction because it had not been able to start construction as planned (“Vary Order Request”). Enbridge explained that the reason for the construction delay was that the City of Mississauga and Enbridge could not secure certain lands in time to begin construction as planned. Enbridge stated that it anticipated that these lands still had to be secured and that construction would not start prior to winter.

Enbridge requested that Condition 1.2 be revised as follows:

“Unless otherwise ordered by the Board, authorization for Leave to Construct shall terminate June 30, 2012, unless construction has commenced prior to that date.”

In its Vary Order Request Enbridge noted that no party participated in the leave to construct proceeding and that no party would be adversely impacted by extending the Leave to Construct authorization. Enbridge requested that the Board dispose of this matter without a hearing in accordance with section 21(4)(b) of the Act.

The Board grants, without a hearing, the relief sought by Enbridge. The Board finds Enbridge's proposed wording of the Condition 1.2 acceptable.

The Board notes Enbridge served the Notice as directed and that no party took the opportunity to actively participate, to file a comment or to express interest in the Leave to Construct proceeding. In Board's view, the extension of the Leave to Construct authorization until June 30, 2012 would not adversely affect any party and therefore grants the Vary Order Request without a hearing.

**THE BOARD ORDERS THAT:**

1. Condition 1.2 in the Conditions of Approval in Appendix A to the Board's Decision and Order EB-2010-0241, dated January 20, 2011, be replaced with the following wording:

"Unless otherwise ordered by the Board, authorization for Leave to Construct shall terminate June 30, 2012, unless construction has commenced prior to that date."

2. All other Conditions of Approval remain unchanged.

**DATED** at Toronto, November 24, 2011

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Wally  
Board Secretary