



EB-2012-0099

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

AND IN THE MATTER OF an application by Enbridge Gas Distribution Inc. for an order pursuant to section 90 of the *Ontario Energy Board Act, 1998*, granting leave to construct natural gas pipelines in the city of Ottawa.

AND IN THE MATTER OF an application by Enbridge Gas Distribution Inc. for an order pursuant to section 97 of the *Ontario Energy Board Act, 1998*, approving the form of agreement to be offered to each landowner affected by the approved route.

BEFORE: Cynthia Chaplin
Presiding Member

Christine Long
Member

Emad Elsayed
Member

DECISION AND ORDER

November 29, 2012

Enbridge Gas Distribution Inc. (“Enbridge”) filed an application with the Ontario Energy Board (the “Board”) on June 28, 2012 under sections 90 and 97 of the *Ontario Energy Board Act, 1998*, (“Act”) for an order granting Enbridge leave to construct approximately 18.8 kilometres (“km”) of Nominal Pipe Size 24 (“NPS 24”) Extra High Pressure (“XHP”) steel pipeline (the “Proposed Pipeline”) to reinforce the existing natural gas delivery system in the Ottawa area. Enbridge is also seeking an order, pursuant to section 97 of

the Act, approving the form of easement agreements to be offered to landowners affected by the approved route. The Board assigned the application file number EB-2012-0099.

For the reasons set out below, the Board finds that the construction of the Proposed Pipeline is in the public interest and grants Enbridge leave to construct subject to the terms and conditions attached as Appendix A to this Decision and Order (the “Conditions of Approval”) and the requirements set out in the Board Findings section of this Decision and Order. The Board also approves the proposed form of easement agreement that has been offered or will be offered to all landowners affected by the approved route.

The Proposed Pipeline

The Proposed Pipeline route begins at Enbridge’s Richmond Gate Station located on the north side of Fallowfield Road, approximately 2.2 km west of Huntley Road in Goulbourn Township. The Proposed Pipeline proceeds north from the Richmond Gate Station through an existing TransCanada Pipelines Limited (“TCPL”) pipeline easement for approximately 1.4 km to Flewellyn Road where it turns eastward. It continues along Flewellyn Road for 7.3 km to Eagleson Road. At Eagleson Road, the Proposed Pipeline route proceeds north for 0.4 km to Hope Side Road. At Hope Side Road, the Proposed Pipeline proceeds east for approximately 2.0 km to Richmond Road. At this point the Proposed Pipeline turns north along Richmond Road for 2.7 km to the intersection of West Hunt Club Road. At West Hunt Club Road, the Proposed Pipeline route turns eastwards for approximately 5.0 km to terminate north of the intersection of West Hunt Club Road and Greenbank Road in the City of Ottawa where it will be tied into the existing Enbridge XHP distribution system.

Enbridge plans to start construction of the Proposed Pipeline no later than March 2013 and the projected in-service date is January 2014.

A map showing the location of the Proposed Pipeline is attached as Appendix B.

The Proceeding

The Board issued a Notice of Application and Written Hearing (“Notice”) on July 26, 2012. Enbridge served and published the Notice as directed by the Board. There are

no intervenors in this proceeding. Observer status was requested by Carleton Condominium Corporation #51 (“Carlton Condominium”) and this request was granted. There were also two letters of comment filed in this proceeding, one by the City of Ottawa (the “City”) and one by CastleGlenn Consultants Inc.

In accordance with the procedural schedule, Board staff filed interrogatories on September 24, 2012. Enbridge filed interrogatory responses on October 5, 2012. Board staff filed a written submission on October 19, 2012. Enbridge filed its reply submission on October 29, 2012.

The Public Interest Test

This is an application under section 90 of the Act seeking an order for leave to construct a natural gas pipeline. Section 96 of the Act provides that the Board shall make an order granting leave to carry out the work under section 90 if the Board finds that “the construction, expansion or reinforcement of the proposed work is in the public interest.” When determining whether a project applied for under section 90 of the Act is in the public interest, the Board typically examines the need for the project, the economics of the project, the impact of the project on the ratepayers, the environmental impact of the project, the impact on landowners, and pipeline design (technical and safety requirements).

The following questions define the scope of the Public Interest Test:

- Is there a need for the Proposed Pipeline?
- Has the economic feasibility of the Proposed Pipeline been demonstrated?
- What are the environmental impacts associated with construction of the Proposed Pipeline and have they been adequately addressed?
- Are there any outstanding landowner matters for the Proposed Pipeline routing and construction?
- Is the Proposed Pipeline designed in accordance with the current technical and safety requirements?

Each of these issues is addressed below.

The Need for the Pipeline

Enbridge has stated that the Proposed Pipeline is needed to increase the capacity of the Ottawa area distribution system to meet existing and forecast loads as well as to provide additional security of supply and operational flexibility.

The current capacity at the Ottawa Gate Station (“Ottawa Gate”) inlet is insufficient to handle the current peak flow requirements. At tariff pressure, Ottawa Gate has a capacity of $340 \times 10^3 \text{m}^3/\text{hr}$. The 2012-2013 forecasted flow, with interruptible customers off, is $390 \times 10^3 \text{m}^3/\text{hr}$. This situation is currently mitigated by a temporary agreement with TCPL where Enbridge will accept lower than tariff pressure to allow TCPL to provide a greater flow into Ottawa Gate. By accepting delivery pressures at lower than tariff pressure, TCPL is able to supply additional gas volumes. However, as system growth continues, a reduction in delivery pressure will result in Enbridge not being able to provide sufficient supply to the Ottawa system.

In addition to insufficient current capacity, the need for the Proposed Pipeline in the Ottawa area is also based on the expected growth of more than 77,000 customers over the next 10 years. On a volume basis, peak load is forecasted to increase by $117 \times 10^3 \text{m}^3/\text{hr}$ over the 10-year period.

The Board finds that Enbridge has adequately substantiated the need for the Proposed Pipeline.

Project Economics – Feasibility of the Proposed Pipeline

The capital cost for the Proposed Pipeline is estimated to be \$51.24 million. The overall feasibility of the project has been determined using the methodology that adheres to the *“Ontario Energy Board Guidelines for Assessing and Reporting on Natural System Expansion in Ontario”* set out in the Ontario Energy Board’s EBO 188 *“Report to the Board”* dated January 30, 1998 (“EBO 188”). According to Enbridge’s evidence, the Proposed Pipeline passes the feasibility tests set in EBO 188.

The Board accepts Enbridge’s evidence on the cost estimates and the results of the economic feasibility methodology.

As the actual costs will not be available until the Proposed Pipeline is completed, the Board will require a report from Enbridge on the actual costs of the Proposed Pipeline approved in this Decision and Order. Accordingly, the Board has included the following in its Conditions of Approval:

- 1.5 Within 15 months of the final in-service date, Enbridge shall file with the Board Secretary a Post Construction Financial Report. The Report shall indicate the actual capital costs of the project and shall explain all significant variances from the estimates filed in the proceeding.

Environmental Impacts

The route selection for the Proposed Pipeline was completed in accordance with the *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario, 6th edition, 2011* (“OEB Environmental Guidelines”). The results of the routing and environmental assessment are presented in a report entitled *Ottawa Reinforcement Project Environmental and Cumulative Effects Assessment Final Report* (the “ER”). The ER was completed by Dillon Consulting Limited (“Dillon”) and was submitted as part of the pre-filed evidence. The ER included an Archaeological Assessment and an environmental implementation plan for the Proposed Pipeline. No outstanding environmental or construction issues were identified.

Enbridge has stated that the Proposed Pipeline will be constructed in accordance with Enbridge’s Contract Specifications, Enbridge’s Construction and Maintenance Manual, and the recommendations set out in the ER. With the implementation of mitigation measures identified by Dillon in the ER, Enbridge expects no significant environmental impacts resulting from construction and routing of the Proposed Pipeline.

The evidence indicates that there was extensive public consultation, including consultation with aboriginal groups. The consultation was consistent with the Board’s Environmental Guidelines. Enbridge’s evidence stated that there are no outstanding or unresolved issues relating to any of the consultations.

The Board finds that Enbridge has proposed an appropriate mitigation and restoration program to construct the Proposed Pipeline. To ensure mitigation of impacts, and restoration of land and water resources, the Board has imposed monitoring and

reporting requirements in the Conditions of Approval. The Board also finds that the environmental plans proposed by Enbridge are acceptable.

The Board is aware that other approvals will be required for construction of the Proposed Pipeline. Therefore, the Board is including in its Conditions of Approval the requirement for Enbridge to “obtain all other approvals, permits, licences, and certificates required to construct, operate and maintain the proposed project.”

Landowner Matters

The Proposed Pipeline is to be primarily located within the road allowance along the proposed route. A 6 meter permanent easement and a 10 meter temporary easement, for the construction period, will be required through property owned by TCPL from Enbridge’s Richmond Gate Station to Flewellyn Road. Enbridge stated that it would obtain the required easements from TCPL prior to the construction of the Proposed Pipeline.

A temporary working easement will also be required from the City to facilitate an in-line inspection of the Proposed Pipeline post-construction. Enbridge has stated that it will obtain the temporary working easement from the City prior to being needed for the construction of the in-line inspection facility.

Enbridge has stated that other temporary easements for the construction period would be beneficial to Enbridge in constructing the Proposed Pipeline but they are not essential.

Enbridge filed with the Board forms of agreements for an Agreement to Grant Easement, a Standard Easement Agreement, and a Working Area Agreement that Enbridge will offer to the affected landowners.

Section 97 of the Act requires that the Board approve the form of agreement that has been or will be offered to the landowners affected by the approved route. The Board approves the proposed forms of agreement included in the evidence.

Pipeline Design - Technical and Safety Requirements

Enbridge has stated that the design specifications for the Proposed Pipeline are in accordance with the requirements of Ontario Regulation 210/01, made under the *Technical Standards and Safety Act 2000*, Oil and Gas Pipeline Systems.

The Board finds that the Proposed Pipeline meets the construction and operational requirements for safe operation. The Technical Standards and Safety Authority, as the agency overseeing the operation of pipelines in Ontario, has the authority to enforce all the applicable standards.

Planned Road Widening and Depth of Cover

In its letter of comment, the City stated that it is in the process of conducting a provincial Environmental Assessment (the "EA") to increase the roadway capacity in an area that could affect the Proposed Pipeline. Specifically, a section of the proposed route along Eagleson Road and Hope Side Road to Highway 416 is being considered for road widening by the City and this may impact the Proposed Pipeline. Enbridge acknowledged the potential issue and stated that it may need to bury the Proposed Pipeline to a greater depth to avoid having to move the Proposed Pipeline if the City's road widening plans materialize.

In response to interrogatories from Board staff, and to address the issues related to the planned road widening raised by the City, Enbridge evaluated two courses of action:

1. Delay construction of the route of the Proposed Pipeline in the section along the planned road widening until the EA is completed in 2014; or
2. Construct the entire Proposed Pipeline in 2013 and increase the depth in the area that could be affected by the planned road widening.

Enbridge indicated that to delay construction of a section of the route until the EA was completed gave rise to the risk that the Proposed Pipeline would not be in service in its entirety by the end of 2014. This would, according to Enbridge, result in inadequate minimum system pressures at key locations in the Ottawa distribution network. Furthermore, Enbridge stated that it would cost approximately \$750,000 to delay construction of that section of the Proposed Pipeline (i.e., additional contractor mobilization and set up costs, legal fees etc.).

The other approach would be to install the entire pipeline in 2013 including the section of the Proposed Pipeline in the area that may be affected by the City's proposed future roadwork that would require a greater depth of cover. However, under this scenario, Enbridge would incur higher construction costs as a result of having to construct approximately 6 km of the Proposed Pipeline at a greater depth. The cost of placing the 6 km of the Proposed Pipeline at a greater depth was estimated to be \$2.5 million. In its submission, Board staff recognized that a delay in construction until 2014 may result in Enbridge not having the Proposed Pipeline in service by 2014; however, burying the 6 km of pipeline at a lower depth may not be required depending on the result of the EA (which could then potentially result in an unnecessary cost to ratepayers).

Board staff therefore proposed the following condition of approval:

Enbridge shall delay construction of the section(s) of the pipeline and facilities on the route from the intersection of Eagleson Road and Hope Side Road to Highway 416 that may be impacted by the City of Ottawa's future road widening until the Corridor EA is completed.

In its reply submission, Enbridge stated that it had met with the City after its interrogatory responses were filed and that those discussions revealed that "out of the 6 km of the Proposed Pipeline route that coincides with the City of Ottawa's future road widening plans, it is expected that the cumulative length of the pipeline that will require additional depth will be less than 1.5 km." Enbridge stated that if the cumulative length of the Proposed Pipeline that had to be constructed at an additional depth was reduced to 1.5 km, then Enbridge anticipated that the additional cost would be approximately \$660,000.

Given that the cost of placing the 1.5 km of the Proposed Pipeline at an additional depth was estimated to be \$660,000 and the cost of delaying construction of a section of the Proposed Pipeline was estimated to be \$750,000, Enbridge requested that the Board not impose Board staff's proposed condition of approval. Instead, Enbridge asked that the Board provide Enbridge with the discretion to proceed in the manner it determines appropriate in the circumstances.

Based on this new and updated information, the two options (delaying part of the construction or burying a section deeper) appear to have comparable cost estimates. Given the approximate nature of these cost estimates, and the fact that the selection of the preferred option depends on when Enbridge receives a functional road widening design or a mutually agreed upon plan for the affected pipeline sections from the City of Ottawa, the Board has determined that it is best to provide Enbridge with the flexibility to proceed with the option which Enbridge will be able to demonstrate to be the least cost option under the circumstances.

The Board, therefore, finds that the construction of the Proposed Pipeline should be approved and that Board staff's proposed condition of approval need not be imposed.

However, in accordance with section 1.4 of the Conditions of Approval, Enbridge must advise the Board's designated representative of any material change in the construction plans and associated cost estimates, and Enbridge shall not make such a change without the prior approval of the Board or its designated representative. The Board also cautions Enbridge that if the actual costs are higher than the estimates provided as part of this application, those costs may be subject to further review in a future rate proceeding before they are recovered through rates.

For the reasons set out above, the Board finds that the Proposed Pipeline is in the public interest and grants Enbridge the leave to construct subject to the Board's Conditions of Approval and the requirement above. The Board also approves the proposed form of easement agreement that has been offered or will be offered to all landowners affected by the approved route.

THE BOARD ORDERS THAT:

1. Enbridge Gas Distribution Inc. is granted leave to construct approximately 18.8 km of NPS 24 XHP steel pipeline and facilities located in the Ottawa area, subject to the Conditions of Approval set out in Appendix A to this Decision and Order and the requirements set out in the Decision.
2. Enbridge Gas Distribution Inc. shall pay the Board's costs incidental to this proceeding upon receipt of the Board's invoice.

DATED at Toronto, November 29, 2012

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

Appendix A

Conditions of Approval

EB-2012-0099

Enbridge Gas Distribution Inc. Leave to Construct Application

Conditions of Approval

1 General Requirements

- 1.1 Enbridge Gas Distribution Inc. ("Enbridge") shall construct the facilities and restore the land in accordance with its application and the evidence filed in EB-2012-0099 except as modified by this Order and these Conditions of Approval.
- 1.2 Unless otherwise ordered by the Board, authorization for Leave to Construct shall terminate December 31, 2013, unless construction has commenced prior to that date.
- 1.3 Enbridge shall implement all the recommendations of the Environmental Report filed in the pre-filed evidence, and all the recommendations and directives identified by the members of the Ontario Pipeline Coordinating Committee ("OPCC").
- 1.4 Enbridge shall advise the Board's designated representative of any proposed material change in construction or restoration procedures and, except in an emergency, Enbridge shall not make such change without prior approval of the Board or its designated representative. In the event of an emergency, the Board shall be informed immediately after the fact.
- 1.5 Within 15 months of the final in-service date, Enbridge shall file with the Board Secretary a Post Construction Financial Report. The Report shall indicate the actual capital costs of the project and shall explain all significant variances from the estimates filed in the proceeding.

2 Project and Communications Requirements

- 2.1 The Board's designated representative for the purpose of these Conditions of Approval shall be the Manager, Natural Gas Applications.
- 2.2 Enbridge shall designate a person as project engineer and shall provide the name of the individual to the Board's designated representative. The project engineer will be responsible for the fulfillment of the Conditions of Approval on the construction site. Enbridge shall provide a copy of the Order and Conditions

of Approval to the project engineer, within seven days of the Board's Order being issued.

- 2.3 Enbridge shall give the Board's designated representative and the Chair of the OPCC ten days written notice in advance of the commencement of the construction.
- 2.4 Enbridge shall furnish the Board's designated representative with all reasonable assistance for ascertaining whether the work is being or has been performed in accordance with the Board's Order.
- 2.5 Enbridge shall file with the Board's designated representative notice of the date on which the installed pipelines were tested, within one month after the final test date.
- 2.6 Enbridge shall furnish the Board's designated representative with five copies of written confirmation of the completion of construction. A copy of the confirmation shall be provided to the Chair of the OPCC.

3 Monitoring and Reporting Requirements

- 3.1 Both during and after construction, Enbridge shall monitor the impacts of construction, and shall file four copies of both an interim and a final monitoring report with the Board. The interim monitoring report shall be filed within six months of the in-service date, and the final monitoring report shall be filed within fifteen months of the in-service date. Enbridge shall attach a log of all complaints that have been received to the interim and final monitoring reports. The log shall record the times of all complaints received, the substance of each complaint, the actions taken in response, and the reasons underlying such actions.
- 3.2 The interim monitoring report shall confirm Enbridge's adherence to Condition 1.1 and shall include a description of the impacts noted during construction and the actions taken or to be taken to prevent or mitigate the long-term effects of the impacts of construction. This report shall describe any outstanding concerns identified during construction.
- 3.3 The final monitoring report shall describe the condition of any rehabilitated land and the effectiveness of any mitigation measures undertaken. The results of the monitoring programs and analysis shall be included and recommendations made as appropriate. Any deficiency in compliance with any of the Conditions of Approval shall be explained.

4 Easement Agreements

- 4.1 Enbridge shall offer the form of agreement approved by the Board to each landowner, as may be required, along the route of the proposed work.

5 Other Approvals and Agreements

- 5.1 Enbridge shall obtain all other approvals, permits, licences, and certificates required to construct, operate and maintain the proposed project, shall provide a list thereof, and shall provide copies of all such written approvals, permits, licences, and certificates upon the Board's request.

Appendix B

Map of the Location of the Proposed Pipeline

Ottawa Reinforcement

