



EB-2008-0065

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(1) of the Ontario Energy Board Act, 1998, granting
leave to construct a natural gas distribution pipeline and
related facilities in the City of Thorold in the Regional
Municipality of Niagara.

BEFORE: Paul Vlahos
Presiding Member

Paul Sommerville
Member

DECISION AND ORDER

Enbridge Gas Distribution Inc. (“Enbridge” or “EDG”) has filed an application with the Board, dated June 27, 2008, under section 90(1) of the *Ontario Energy Board Act*, 1998, S.O. 1998, c.15, Schedule B, for orders granting leave to construct approximately 2.9 km of Nominal Pipe Size (“NPS”) 12 diameter steel high pressure pipeline and a gate station (meter and pressure regulator) in the City of Thorold, in the Regional Municipality of Niagara. The pipeline and related facilities are intended to serve the requirements of natural gas demand for a gas-fired generator currently under construction.

For the reasons set out below, the Board finds that the construction of the proposed pipeline is in the public interest and grants Leave to Construct, subject to certain Conditions of Approval, which are attached to this Decision.

The Proposed Pipeline

The 2.9 km pipeline will be a dedicated line providing natural gas to a 265 MW cogeneration plant proposed by Northland Power Inc., Thorold Cogen L.P. ("Thorold Cogen facility"), in Thorold being constructed at the Abitibi Plant where both heat and electricity will be produced.

A map showing the location of the proposed pipeline and ancillary facility is attached as Appendix A. The proposed pipeline will originate at the TransCanada Pipeline ("TCPL") where it crosses Thorold Townline Road. At that location, Enbridge proposes to construct a gate station to reduce the TCPL line pressure to less than 4500 kPa (653 psi) and to measure the gas volumes to the Thorold Cogen station. Enbridge's proposed line will proceed north along the road allowance of Thorold Townline Road from the intersection with TCPL for approximately 0.6 km to Beaversdams Road. The pipeline will then proceed west along Beaversdams Road for 0.8 km to Davis Road (Highway 58) and Niagara Falls Road. The pipeline will follow Niagara Falls Road west for approximately 1.2 km to Allanburg Road where it will proceed north on Allanburg Road for 0.2 km to the route end point located at the proposed Thorold Cogen facility.

The Proceeding

The Board issued the Notice of Application on August 1, 2008, which was published and served by EGD as directed. Intervenor requests were received from Walker Community Development Corporation, Thorold Cogen L.P. and Hydro One Networks Inc. All requests for intervention were approved. No observer or letters of comment were filed. The Board proceeded by way of a written hearing. No interrogatories or submissions were filed by the intervenors

On September 4, 2008, Board Staff, through written interrogatories, requested clarification of certain aspects of the pre-filed evidence and additional information. On

September 23, 2008, EGD responded to the interrogatories, which concluded the discovery phase of the proceeding.

This is an application under section 90 of the Act, seeking a Leave to Construct Order. Section 96 of the Act provides that the Board shall make an Order granting leave if the Board finds that “the construction, expansion or reinforcement of the proposed work is in the public interest”. When determining whether a project is in the public interest, the Board typically examines the need for the project, the economics of the project, the environmental impact, the impact on landowners and consultation with Aboriginal Peoples. Each of these factors will be considered in turn.

The Need for the Project

The proposed pipeline and related facilities are intended to deliver gas to the proposed Thorold Cogen facility.

The Thorold Cogen facility is a 265 MW combined heat and power (“CHP”) facility that is natural-gas fired. The waste heat from the turbine will be used to produce steam, some of which will be piped over to and consumed by the Abitibi-Consolidated paper mill that is located on the same property. Thorold Cogen has entered into a 20-year agreement with the Ontario Power Authority (“OPA”) to supply electricity to the province. This agreement was the result of an OPA-administered competitive Request for Proposal (“RFP”) process as per an Ontario Ministry of Energy directive. The directive was in response to critical needs for new clean, efficient and reliable electricity supply in the province. Thorold Cogen was selected to develop a CHP facility through the RFP process.

EGD states, and the Board accepts, that the timely development of the facilities required to deliver natural gas to the Thorold Cogen facility is critical to achieving these reliability and efficiency objectives. Gas will be required for commissioning during the third quarter of 2009 to prepare for commercial operation in the first quarter of 2010.

The Proposed Pipeline's Design

According to EGD's evidence, the design and pipe specifications, installation and testing of the proposed pipeline adhere to the requirements of Ontario Regulation 210/01 under the *Technical Standards and Safety Act*, Oil and Gas Pipeline Systems and the CSA Z662-03 Oil and Gas Pipeline Systems code.

The Board is satisfied that the evidence establishes that the pipeline design and specifications are acceptable.

Environmental Assessment and Routing

EGD retained Stantec Consulting Limited ("Stantec") to undertake an environmental assessment, evaluate alternatives and advise on the selection of a preferred route. The environmental assessment was carried out in accordance with the Board's "Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario (May 2003)" (the "Board's Environmental Guidelines"). The results of the assessment are documented in the report entitled "Environmental Report: Pipeline to serve the proposed Thorold Cogen L.P." dated April, 2008 (the "Stantec Report"), which was filed in this proceeding.

As part of the environmental assessment process, Stantec undertook consultation with government agencies and the public. Public meetings were held on May 16, 2007, June 26, 2007 and March 18, 2008 to inform the public of the project and to solicit input. The Stantec Report included details of the public consultation undertaken. No major concerns were identified.

In accordance with the Board's Environmental Guidelines, the Stantec Report was reviewed by the Ontario Pipeline Coordination Committee ("OPCC"). There are no outstanding concerns related to the OPCC review.

Stantec assessed and rated five route alternatives using routing criteria and consideration of proposed mitigation measures. The Stantec Report concluded that the preferred route selected is the shortest in length and has the least potential for encountering archaeological resources. The Report states that the mitigating

measures proposed comply with accepted industry practice and EGD's construction manual, and that the net residual environmental effects do not constitute a significant environmental effect.

EGD confirms that all permits and approvals will be secured prior to the construction of the pipeline.

The Board accepts EGD's evidence regarding the environmental assessment of the proposed pipeline, and finds that the proposed mitigation and monitoring activities are acceptable and address the environmental concerns. The Board also accepts that the proposed project is the best alternative.

Economics of the Project

The total estimated cost for the Thorold Cogen Pipeline project is \$6,397,224. The economic feasibility of the project was measured in accordance with the Board's approved procedures as established in EBO 188¹. The feasibility analysis for the project was based upon a 20-year customer revenue horizon and has been prepared based on EGD's feasibility guidelines pursuant to the Board's Decision with Reasons in EGD's EB-2006-0034 rate application. This analysis indicated that the proposed facilities have a Net Present Value ("NPV") of \$0 and a Profitability Index ("PI") of 1.00. A PI at or above 1.0 indicates that the project is economic for EGD. Enbridge's Rate-125 will recover the revenue requirement through monthly demand charges.

The Board accepts EGD's evidence and finds that the project is economically feasible under the proposed feasibility analysis.

Land Issues and Form of Easement

Section 97 of the Act provides that a leave to construct will not be granted until the applicant has satisfied the Board that it has offered or will offer to each owner of land

¹ [The Consumers Gas Company Ltd, Union Gas Limited and Centra Gas Ontario Inc., Natural Gas System Expansion, Report of the Board, EBO 188, (January 30, 1998)]

affected by the approved route or location an agreement in a form approved by the Board.

EGD has indicated that the proposed pipeline is to be located entirely within existing road allowances. As such, EGD does not anticipate the need to obtain either temporary or permanent land rights. However, EGD has filed with the Board a form of easement agreement that it will offer to landowners in the event that requirement for easements change.

EGD notes that two acres of property are required for the Gate Station facilities. There are three potential locations identified for the Gate Station. Negotiations are continuing with the landowners to finalize the site for the Gate Station.

The Board approves the form of easement which has been filed by EGD.

Aboriginal Consultation Conducted by Enbridge

EGD, through the Stantec Report, advised that there were no known First Nation reserves or lands that are currently used along the proposed pipeline route for traditional or cultural purposes.

Stantec initiated consultation with the Indian and Northern Affairs Canada ("INAC") to ensure the status of lands within the Study area did not contain First Nation reserves or lands. A response from INAC's Specific Claims Branch was received on July 19, 2007, indicating that there are no land claims in the Study Area that INAC is aware of.

The Board is satisfied that EGD has conducted a proper search and that no Aboriginal groups will be adversely affected by the proposed project.

Orders Granted

For the reasons indicated, the Board finds the pipeline project proposed by EGD in this proceeding is in the public interest and grants an Order for Leave to Construct subject to the Conditions of Approval as set out in Appendix B.

THE BOARD ORDERS THAT:

1. Enbridge Gas Distribution Inc. is granted leave, pursuant to subsection 90 (1) of the Act, to construct approximately 2.9 kilometres of NPS 12 in the City of Thorold, the Regional Municipality of Niagara for the purpose of supplying natural gas to the Thorold Cogen L.P. facility, subject to the Conditions of Approval set forth in Appendix B.
2. Enbridge Gas Distribution Inc. shall pay the Board's costs incidental to this proceeding upon receipt of the Board's invoice.

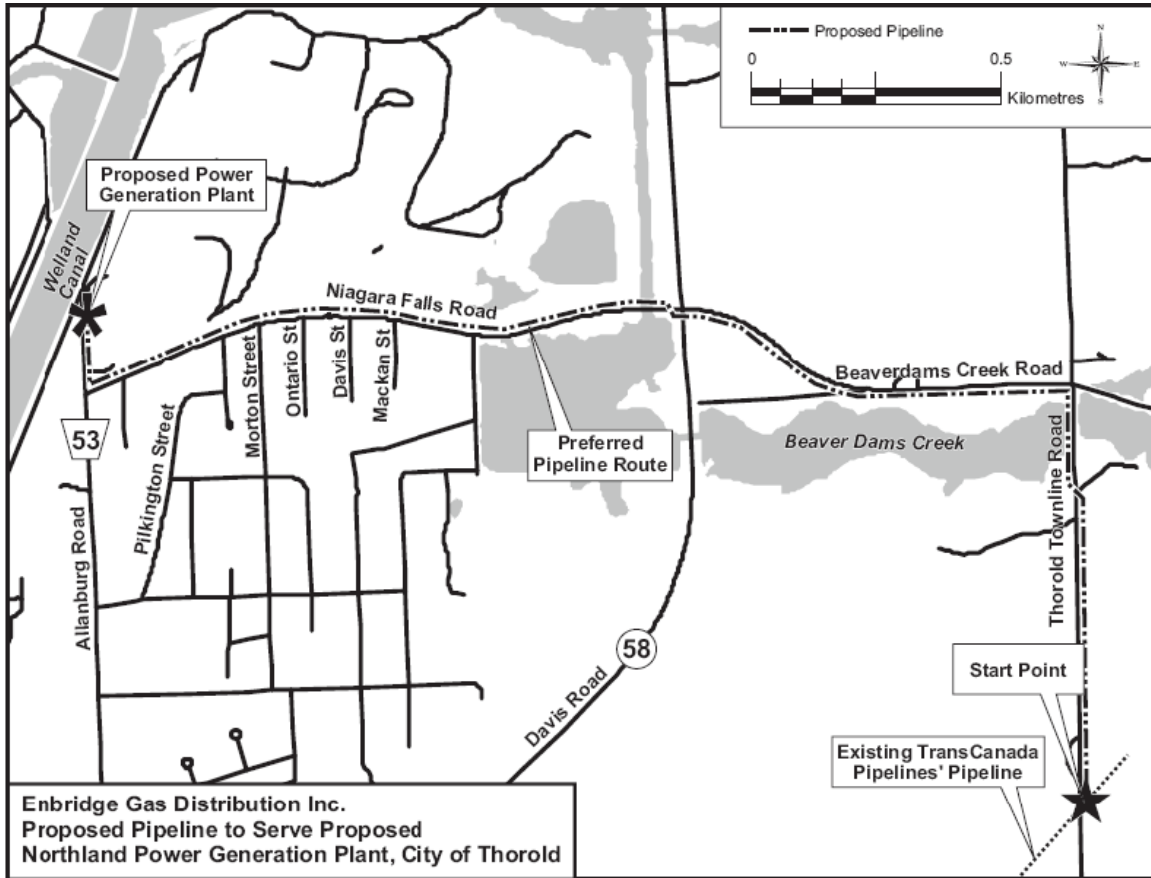
DATED at Toronto October 28, 2008

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

APPENDIX A
TO BOARD DECISION AND ORDER
IN THE MATTER OF EB-2008-0065
DATED October 28, 2008
MAP OF THE PIPELINE ROUTE



APPENDIX B
TO BOARD DECISION AND ORDER
IN THE MATTER OF EB-2008-0065
DATED October 28, 2008
CONDITIONS OF APPROVAL

Conditions of Approval

Leave to Construct

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-2008-0065, 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, 2009, unless construction has commenced prior to then.
- 1.3 Except as modified by this Order, 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 Ontario Pipeline Coordinating Committee ("OPCC") review.
- 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.

2 Project and Communications Requirements

- 2.1 The Board's designated representative for the purpose of these Conditions of Approval shall be the Manager, Facilities 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 fulfilment 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.
- 5.2 Enbridge shall not, without prior approval of the Board, consent to any alteration or amendment to the Gas Delivery Agreement dated and executed on August 15, 2007, where such alteration or amendment has or may have any material impact on Enbridge's ratepayers.
- 5.3 Enbridge shall file with the Board, a copy of Thorold Cogen L.P.'s irrevocable bank letter of credit to Enbridge for an amount not less than cost estimate of the applied-for facilities; this filing shall take place no later than 14 days after the start of construction.