



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

DECISION AND 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 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 proposed pipeline route begins approximately 105 metres west of Torbram Road south of the Canadian National Railway (“CNR”) Weston then proceeds northeast for approximately 200 metres and ties in an existing Enbridge’s pipeline east of Torbram Road. The Board has assigned the application file number EB-2010-0241.

For the reasons set out below, the Board finds the construction of the proposed pipeline to be in the public interest and grants leave to construct on the terms and conditions

(Conditions of Approval) set out in this Decision. The Board's Conditions of Approval are attached as Appendix A.

The Proposed Pipeline

The proposed project is a relocation of an existing extra high pressure Enbridge pipeline of the same diameter which runs perpendicular to Torbram Road. The pipeline is located in the vicinity of Weston Subdivision, formerly the CNR Weston, at Torbram Road. The project would be constructed entirely by horizontal directional drilling.

Construction is scheduled to start in April 2011 and to be completed by July 2011 in order to facilitate the construction of the road separation.

A map showing the location of the proposed pipeline is attached as Appendix B.

The Proceeding

The Board issued a Notice of Application and Hearing ("Notice") 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 ("IR") 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.

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 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, impact on the ratepayers, environmental impact, the impact on land owners and pipeline design technical requirements.

The following issues define the scope of the proceeding:

- Is there a need for the proposed pipeline?
- Are there any undue negative rate implications for Enbridge’s rate payers caused by the construction and operation of the proposed pipeline?
- What are the environmental impacts associated with construction of the proposed pipeline and are they acceptable?
- Are there any outstanding landowner matters for the proposed pipeline routing and construction?
- Is the pipeline designed in accordance with the current technical and safety requirements?

Each of these issues is addressed below.

The Need for the Project

The project is needed as part of work to complete Torbram Road safety improvement by the City of Mississauga and the City of Brampton (“the City”).

The Board finds that Enbridge has adequately addressed the need for the pipeline.

Project Economics

The estimated cost of the project is \$3.9 million. Enbridge indicated that it would bear an estimated \$280,000 of the total project cost. The remaining cost would be reimbursed by the City as follows: (i) for the work not on the City highway the City would reimburse Enbridge 100% of costs; (ii) for the work on the City highway the amount would be in accordance with the cost sharing formula set out in section 12 of the Model Franchise Agreements between Enbridge and the City of Mississauga and the City of Brampton. Enbridge filed copies of current franchise agreements with City of Mississauga and the City of Brampton.

Enbridge noted that the proposed project which is subject to this application is part of 3 relocation projects related to the road improvements and that Enbridge did not provide the City with a breakdown of the cost allocation for each individual relocation. Enbridge also noted that the Letter of Authorization dated May 28, 2010 from the City refers to the \$ 5.16 million as cost of all 3 relocation projects including the \$3.9 million estimate for the project subject to this application.

The Board finds that Enbridge's evidence on the cost estimates and cost reimbursement is acceptable. The Board notes that actual costs will not be available to Enbridge and the City until the project is completed. For this reason, the Board will require a report from Enbridge on the actual costs and cost sharing for the project approved by this decision and order. Therefore, the Board included the following as a Condition of Approval to the leave to construct order:

- 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:
 - a) the actual capital costs of the project and an explanation for any significant variances from the estimates filed in this proceeding.

- b) the actual the capital costs for the project borne by Enbridge and the actual costs reimbursed by the City of Mississauga on behalf of the City of Mississauga and the City of Brampton.

The Board requires that the Post Construction Financial Report be prepared for the approved project on a stand-alone basis and provide disaggregated numbers for the relocation project subject to this application.

Environmental Assessment

The routing and environmental assessment have been completed and filed as evidence in a report entitled “Torbram Road Widening and Railway Underpass Environmental Screening Report” (“ER”). The environmental screening was conducted following “Environmental Screening Principles for Distribution System Expansion Projects by Ontario Natural Gas Utilities” as outlined in the OEB E.B.O. 188 Report. The ER included identification and mitigation of the potential environmental impacts of the proposed pipeline. The ER was submitted to the Ontario Pipeline Coordinating Committee (“OPCC”) for review on July 16, 2010 and was updated for a minor route modification in September 2010. The updated ER was reviewed by the OPCC and no concerns were raised.

The Board finds that the evidence supports the appropriate mitigation and restoration program required to construct the pipeline. To ensure mitigation of impacts, restoration of land and water resources the Board imposed monitoring and reporting requirements in the Conditions of Approval .

The Board is aware that other approvals will be required for Enbridge to construct the pipeline. The Board finds that Enbridge’s compliance with the Conditions of Approval ensures that the requirements of these other permits and approvals are fully addressed. The Board finds that the Environmental Implementation Plan proposed by the Applicant is acceptable.

Land Issues

The proposed route is located entirely within existing and proposed Enbridge easements. Enbridge requires both permanent and temporary easements to construct this project. Enbridge and the City of Mississauga are in the process of negotiating for permanent and temporary easements with impacted landowners. Enbridge stated that all the easement rights would be acquired by April 8, 2011. The Board is satisfied that Enbridge will acquire all the necessary easement rights prior to construction of the project.

Section 97 of the OEB Act requires that the Board approve the form of easement agreement that would be offered to the landowners. Enbridge filed forms of both permanent and temporary easement agreements that it would offer and confirmed that these forms had been previously approved by the Board. The Board notes that Condition 4.1 of the Conditions of Approval specifies that these approved forms of easement agreement be used by Enbridge when making offers to the landowners.

Pipeline Design - Technical and Safety Requirements

Enbridge's evidence is that the proposed pipeline is designed in accordance with the requirements of Ontario Regulation 210/01, Oil and Gas Pipeline Systems, under the *Technical Standards and Safety Act, 2008* and the CSA Z662-07 Oil and Gas Pipeline Systems standard. Enbridge also noted that the Technical Standards and Safety Authority (TSSA) reviewed the pipeline design specification and did not raise any issues regarding the construction and operation of the pipeline.

The Board finds that the proposed pipeline meets the construction and operational requirements for safe operation. The TSSA, as the agency overseeing the operation of the pipelines in Ontario, has the authority to implement all those applicable standards.

Orders Granted

For the reasons set out above, the Board finds that the pipeline project being proposed by Enbridge in this proceeding is in the public interest and grants the leave to construct subject to the conditions set out in Appendix A.

THE BOARD ORDERS THAT:

1. Enbridge Gas Distribution Inc. is granted leave, pursuant to subsection 90 (1) of the Act, to construct approximately 270 metres of 323.9 millimetre (12 inch) diameter Extra High Pressure steel pipeline located in the City of Mississauga and the City of Brampton in the Region of Peel , subject to the conditions of approval set forth in Appendix A.
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, January 20, 2011

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

APPENDIX "A"
TO BOARD DECISION AND ORDER
IN THE MATTER OF EB-2010-241
DATED January 20, 2011
CONDITIONS OF APPROVAL

EB-2010-0241
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-2010-0241 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, 2011, unless construction has commenced prior to that date.
- 1.3 Enbridge shall implement all the recommendations of the Environmental Screening 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.
- 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:
 - a) the actual capital costs of the project and an explanation for any significant variances from the estimates filed in this proceeding.
 - b) the actual the capital costs for the project borne by Enbridge and the actual costs reimbursed by the City of Mississauga on behalf of the City of Mississauga and the City of Brampton.

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"

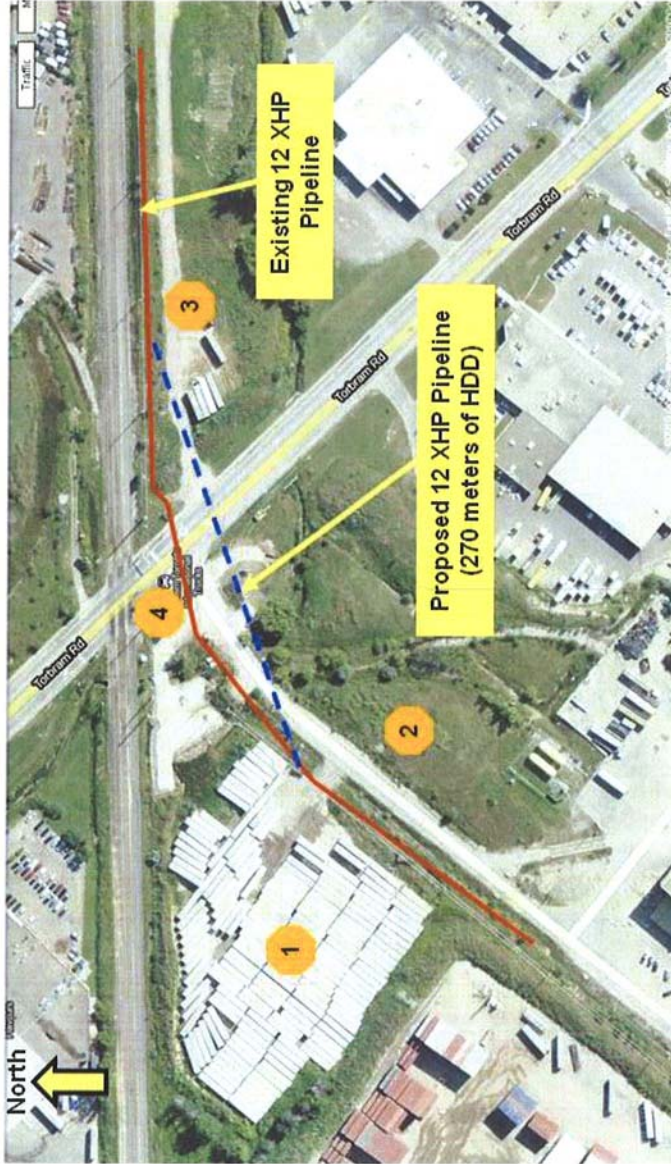
TO BOARD DECISION AND ORDER

IN THE MATTER OF EB-2010-0241

DATED January 20, 2011

MAP OF THE PIPELINE ROUTE

SCHEMATIC OF 12XHP PIPELINE AND AFFECTED LAND OWNERS



1. Canadian National Railway Company
2. Aleris Specification Alloy Products Canada Company
3. 1132227 Ontario Limited
4. The Corporation Of The City Of Mississauga

Figure 1