

EB-2007-0913

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 granting leave to construct a
natural gas pipeline and related facilities in the Town of
Markham.

BEFORE: Paul Sommerville
Presiding Member

Paul Vlahos
Member

Ken Quesnelle
Member

DECISION AND ORDER

1.0 THE APPLICATION

Enbridge Gas Distribution Inc. (the "Applicant") has filed an application with the Ontario Energy Board (the "Board") dated June 13, 2008, under section 90 of the *Ontario Energy Board Act, 1998, S.O. 1998, c.15, Schedule B*. The Applicant has applied for an order of the Board for leave to construct approximately 7.8 kilometres of 16 inch diameter natural gas pipeline and associated facilities in the Town of Markham (the "Project"). The Board has assigned file number EB-2007-0913 to this application.

The proposed pipeline will consist of two 3.9 km sections, a north and a south section as described below and shown in the maps in Appendix A:

- North Section: Approximately 3.9 km, on 9th Line, extending from Markham Gate Station (south of 19th Avenue), south to the Donald Cousens Parkway (formerly Markham Bypass); and
- South Section: Approximately 3.9 km, starting on 9th Line just north of Highway 407, continuing south along the 9th Line Bypass, and ending just north of Steeles Avenue.

2.0 THE PROCEEDING

On July 8, 2008, the Board issued a Notice of Application. The Notice was published and served by the Applicant as directed by the Board. There are no intervenors in this proceeding

Board staff interrogatories were issued on September 22, 2008 and responses were filed on October 6, 2008. On October 15, 2008, Enbridge filed its argument-in-chief.

The Board has proceeded with this application by way of a written hearing.

3.0 THE PUBLIC INTEREST TEST

Section 96(1) of the Act provides that if, after considering an application under section 90 of the Act, the Board is of the opinion that a proposed work is in the public interest, then the Board shall make an order granting leave to carry out the work.

In the context of this application, the main issues considered by the Board are as follows:

1. Is there a need for the proposed project?
2. Have appropriate alternatives been considered?
3. Is the proposed routing of the pipeline appropriate and have the associated environmental impacts been appropriately considered?
4. Have appropriate consultations with Aboriginal Peoples been carried out?
5. Are there any landowner issues?
6. Is the project economically feasible?

Each of these issues is addressed below.

3.1 Project Need

According to Enbridge's evidence, additional capacity is needed to maintain adequate system pressure and provide additional capacity for the Markham South system to meet the forecast customer demand for the 2009/2010 Winter and beyond. The Applicant's evidence is that:

- the existing capacity of the Markham South system is 203,000 cubic metres per hour;
- the expected peak hourly volume in the Markham South system is:
 - 203,000 cubic metres per hour during the 2008/2009 winter;
 - 261,000 cubic metres per hour during the 2009/2010 winter; and
 - 289,000 cubic metres per hour during the 2018/2019 winter;
- The forecast customer load growth is 3% per year;
- the large increase in hourly volume in the 2009/2010 winter results from an optimization of the system that is required in order to increase pressure and flow in a downward system that is in critical need of the Project to support customer demand; and
- additional capacity for the Markham South system is needed to meet the demand in the 2009/10 winter and beyond.

The Board accepts Enbridge's evidence that additional capacity is needed in the 2009/2010 winter to supply the customer load which is expected to increase at a rate of 3% per year from the 203,000 cubic metres per hour expected during the 2008/2009 winter and that the Project will also resolve a downstream pressure and flow problem.

3.2 Alternatives Considered

Enbridge considered three alternatives (including the proposed reinforcement) in each of the North and South sections for providing additional capacity in the Markham South system, as indicated below:

North Section

- Alternative 1: Install 3.8 km of 16 inch pipeline along 9th line (proposal).
(Estimated cost = \$ 2.5 million)¹
- Alternative 2: Install 6.0 km of 16 inch pipeline along 9th line, Major Mackenzie Drive and the CN Rail corridor.
(Estimated cost = \$ 4.0 million)¹
- Alternative 3: Install 7.9 km of 16 inch pipeline along 9th line, Major Mackenzie Drive, Reesor Road, Elgin Mills Road and back to Ninth Line. (Estimated cost = \$ 5.2 million)¹

South Section

- Alternative 1: Install 3.9 km of 16 inch pipeline along 9th line (proposal).
(Estimated cost = \$ 4.6 million)¹
- Alternative 2: Install 5.8 km of 16 inch pipeline along Highway 407 and Donald Cousens Parkway and 9th Line.
(Estimated cost = \$ 6.8 million)¹
- Alternative 3: Install 6.3 km of 16 inch pipeline along Highway 407, Reesor Road, the CP Rail corridor and 9th Line.
(Estimated cost = \$ 7.4 million)¹

Enbridge chose Alternative 1 for both the North and the South section because it has the lowest cost and it has the lowest environmental impact.

The Board accepts Enbridge's evidence that it has evaluated the relevant alternatives and that the Project is the preferred alternative to provide the required capacity in the Markham South system during the 2009/2010 winter and beyond.

¹ This represents the pipe material and installation costs only. The other costs are fixed and independent of the route.

3.3 Routing and Environmental Considerations

Dillon Consulting Ltd was retained by Enbridge to complete an Environmental and Socio-Economic Assessment Report (“EA Report”) for the proposed pipeline in accordance with the Board’s Environmental Guidelines for Location, Construction and Operation of Hydrocarbon Pipelines in Ontario (2003).

A copy of the EA Report was submitted to the Ontario Pipeline Coordinating Committee (OPCC) on December 11, 2007. Copies of the EA Report were also submitted to all interested parties who requested a copy. On September 22, 2008, the OPCC issued a letter which indicates that the OPCC has completed its formal review of the EA Report.

The EA report indicates that the preferred routes for the South and North Sections were sited entirely within existing and previously disturbed road allowances.

Construction will be conducted in accordance with Enbridge’s Environmental Implementation Plan (the “Plan”) and will incorporate mitigation measures for the environmental issues and concerns associated with the proposed works. Implementation of the Plan also ensures that unforeseen environmental circumstances that arise before and during construction are appropriately addressed.

The EA report indicates that construction of the proposed pipeline is scheduled for the spring/summer of 2008. Enbridge submitted that the schedule has since been revised and construction is now expected to begin in May 2009. Enbridge submits that this does not impact any anticipated environmental issues.

Through the above measures, Enbridge expects that there will be no significant environmental impacts from the construction of the proposed works.

The Board is satisfied that the routing and environmental factors associated with the proposed pipeline have been adequately considered.

3.4 Aboriginal Peoples Consultations

Enbridge submitted that a review of background data indicates that there are no Aboriginal Communities or land claims within or adjacent to the study area. In reaching this conclusion, Enbridge submitted that:

- a thorough and comprehensive search of Aboriginal interests was conducted through provincial and federal government agencies that deal directly with interests related to First Nations;

- correspondence from the Ministry of Aboriginal Affairs received by Enbridge's representative on September 21, 2007 stated that they are not aware of any First Nation land claims submitted to the Government of Ontario that would be impacted by this project;
- correspondence from Indian and Northern Affairs Canada received by Enbridge's representative on October 16, 2007 stated that there are no comprehensive claims in Markham, Ontario;
- Enbridge has confirmed with the Department of Indian and Northern Affairs and Ontario Secretariat for Aboriginal Affairs that there are no Aboriginal groups that have filed any outstanding claims or litigation concerning their treaty rights or treaty land entitlement or aboriginal title or rights, which may potentially be affected by the project.

The Board accepts Enbridge's evidence that it has taken appropriate steps to identify any Aboriginal groups that may be affected by the Project and considers the consultation process followed in this case to be appropriate and complete.

3.5 Land Matters

In its pre-filed evidence, Enbridge stated that:

- the majority of the proposed route is located within dedicated road allowances or within the proposed widening of 9th line by York Region.
- a portion of the route will be on land parcels owned by Canadian Pacific Railway Company and Canadian National Railway Company for which permits will be acquired.
- another portion will be on a land parcel owned by the Town of Markham.
- preliminary discussions affected landowners, negotiations have been initiated (Enbridge filed a form of easement agreement that it will offer to landowners).
- it will obtain all required Permits, Agreement to Grant Easements, Easements and Working Area Agreements, if required, for the route and location of the proposed facilities before the commencement of construction.

As required by Section 97 of the *Act*, the Board approves the form of easement agreement filed by Enbridge.

The Board is satisfied that Enbridge has taken appropriate steps to deal with land-related issues associated with the Project.

3.6 Economic Feasibility

The evidence indicates that the total cost of the Project is approximately \$15 million:

	<u>Approx. Cost (\$million)</u>
- Material costs:	2.6
- Labour Costs:	8.4
- External & Land Costs:	1.4
- Overhead Costs:	0.6
- Contingency Costs:	<u>1.9</u>
Total	15.0

Enbridge submitted that it has performed an economic feasibility analysis in accordance with the Board's "Guidelines for Assessing and Reporting on Natural Gas System Expansion in Ontario" and the Board's E.B.O. 188 "Report to the Board" dated January 30, 1988.

The analysis was based on a 40-year customer revenue horizon and shows that:

- the net present value ("NPV") = \$3.4 million; and
- the profitability index ("PI") = 1.14;

Enbridge noted that it manages system expansion projects on a project-by-project basis ensuring individual projects have a PI of 0.80 or greater and the Investment Portfolio of all customer additions has a PI greater than 1.0 plus a safety margin and that the Project is consistent with the above-noted guideline. Enbridge noted that the NPV and the PI of its 2008 Budget Investment Portfolio are \$34.61 million and 1.29, respectively.

Having reviewed the comparative estimates provided by Enbridge for other pipeline projects it has implemented over the last 5 years, the Board is satisfied that the estimated capital cost of the Project is not out of line with other projects.

The Board concludes that the Project meets the Board's guidelines for economic feasibility.

3.7 Overall Conclusion

Based on the evidence and the above findings, the Board has concluded that the Project is in the public interest and that, in accordance with Section 96(1) of the Act, an order granting leave to construct the Project should be made.

THE BOARD ORDERS THAT:

Enbridge Gas Distribution Inc. is granted leave, pursuant to subsection 90 (1) of the Act, to construct approximately 7.8 kilometres of 16 inch diameter natural gas pipeline and associated facilities in the Town of Markham, as described by Enbridge in its evidence, subject to the Conditions of Approval set forth in Appendix B.

DATED at Toronto, November 26, 2008

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

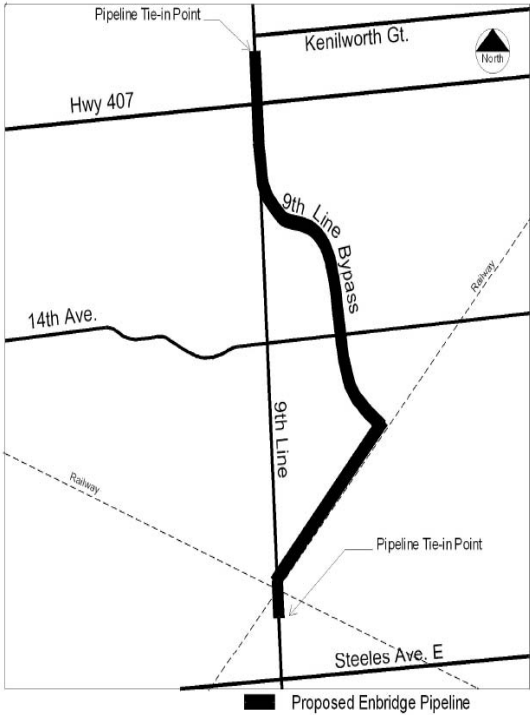
APPENDIX A
TO BOARD DECISION AND ORDER
IN THE MATTER OF EB-2007-0913
DATED NOVEMBER 26, 2008

MAP OF THE PROPOSED PIPELINE ROUTE

NORTH SECTION
Scarborough Reinforcement - Phase II
Proposed Enbridge Gas Distribution Pipeline



SOUTH SECTION
Scarborough Reinforcement - Phase II
Proposed Enbridge Gas Distribution Pipeline



APPENDIX B
TO BOARD DECISION AND ORDER
IN THE MATTER OF EB-2007-0913
DATED NOVEMBER 26, 2008

CONDITIONS OF APPROVAL

CONDITIONS OF APPROVAL
ENBRIDGE GAS DISTRIBUTION INC.
SCARBOROUGH REINFORCEMENT PROJECT – PHASE II
LEAVE TO CONSTRUCT APPLICATION
EB-2007-0913

1.0 General Requirements

- 1.1 Enbridge Gas Distribution Inc. (“Enbridge”) shall construct the facilities and restore the land in accordance with its application and evidence, 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 Study 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.

2.0 Project and Communications Requirements

- 2.1 The Board's designated representative for the purpose of these Conditions of Approval shall be the Manager, Facilities.
- 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.

3.0 Monitoring and Reporting Requirements

- 3.1 Both during and after construction, Enbridge shall monitor the impacts of construction, and shall file five 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 eighteen 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.

- 3.4 Within fifteen months of the in-service date, Enbridge shall file with the Board a written 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 with the Board.

4.0 Easement Agreements

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

5.0 Other Approvals

- 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.