

### **OVERVIEW**

1. Enbridge Gas Distribution Inc. ("Enbridge" or the "Company") is proceeding with construction of an NPS 20 inch natural gas pipeline and related facilities (the "Pipeline") in the City of Toronto to connect with the proposed 550 megawatt electricity generating station, known as the Portlands Energy Centre. The Pipeline will be approximately 2,900 metres in length and will be located within existing road allowances and on private land.
2. Enbridge applied to the Ontario Energy Board (the "Board") under subsection 90(1) of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15 (Schedule B) (the "Act") for leave to construct the pipeline. The application for leave to construct the pipeline was heard by the Board under docket number EB-2006-0305 and, on June 1, 2007, the Board issued a Decision and Order granting Enbridge leave to construct the pipeline. Attached as Exhibit A, Tab 3, Schedule 2 hereto is a copy of the Board's Decision and Order.
3. The Preferred Route originates at Enbridge's Regulator Station 'B' located at 405 Eastern Avenue in the City of Toronto. The pipeline proceeds east along Eastern Avenue for approximately 300 m to Booth Avenue. At Booth Avenue the pipeline heads south for 430 m and proceeds east along Lake Shore Boulevard for 80 m to Logan Avenue. The pipeline then proceeds along the west side of Logan Avenue for approximately 350 m, crossing beneath Lake Shore Boulevard. At Commissioners Street, the pipeline heads west for 210 m to Bouchette Street and heads south for 130 m to Basin Street. At Basin Street, the pipeline continues south for approximately 650 m, along private property owned by the Toronto Economic Development Corporation ("TEDCO"), beneath the Shipping Channel (Toronto Port Authority), and across Ontario Power Generation land to Unwin Avenue. The pipeline proceeds east along Unwin Avenue for 530 m, then heads north 160 m along land owned by TEDCO where it terminates at the future Enbridge meter station. Attached as Exhibit A, Tab 3, Schedule 3 hereto is a sketch showing the Board-approved route for the pipeline.
4. This route was selected by Stantec Consulting Limited, in consultation with Enbridge, and was considered by the Board in EB-2006-0305. In its Decision and Order in that case, the Board found that Enbridge had conducted the routing and environmental assessment for

the pipeline in accordance with the Board's *Environmental Guidelines* and that no outstanding issues remained. The Board went on to approve the form of easement filed by Enbridge and offered to all directly affected landowners along the approved route.

5. As part of the hearing, Enbridge identified seven parties from whom it would require easement agreements. To date, Enbridge is near completion regarding negotiations with Hydro One Networks Inc., Ontario Realty Corporation, City of Toronto, Ministry of Transportation (Ontario), Ontario Power Generation Inc. and its tenant Studios of America. The Board-approved pipeline route contemplates that the pipeline will occupy land that is currently owned by TEDCO.
6. In order to complete the construction of the pipeline, Enbridge requires both permanent easements and temporary working easements on the land owned by TEDCO.
7. The permanent easements required by Enbridge from TEDCO are:

Part of Block 2 of Registered Plan 540 E in the City of Toronto being part 2 on Reference Plan 66R-23130.

Part of Blocks G of Registered Plan 675 E in the City of Toronto being part 13 on Reference Plan 66R-23139.

Part of Blocks X & J of Registered Plan 675 E and part of Lot 63 and Reserve for Park Development of Registered Plan 520 E in the City of Toronto being parts 1, 2, 3, 4, 5, and 6 on Reference Plan 66R-23128.

8. The temporary working easement required by Enbridge from TEDCO is:

Part of Block J of Registered Plan 675 E in the City of Toronto being part 7 on Reference Plan 66R-23128.

9. TEDCO intervened in the leave to construct proceeding and made submissions about the form of easement that was eventually approved by the Board. TEDCO did not object to the route proposed by Enbridge in the leave to construct proceeding. Enbridge has attempted to acquire the required easements from the landowner, but it has been unable to come to any agreement to acquire the easements.

10. Counsel for TEDCO has, to the best of Enbridge's knowledge, agreed to all terms of the easement except compensation. TEDCO has refused an offer to permit Enbridge immediate access to the lands on the terms negotiated with the parties submitting to binding arbitration on the issue of compensation.
11. Because the pipeline must cross the Shipping Channel to supply PEC and TEDCO owns strips of land on both sides of the Shipping Channel and by the Discharge Channel there are no realistic options for Enbridge to construct the pipeline without crossing the lands of TEDCO.
12. The TEDCO lands for which Enbridge seeks the easements are already encumbered with 999 year easements to Ontario Power Generation and Hydro One.
13. PEC has informed Enbridge that it requires gas distribution service by February 2008. Enbridge has endeavoured to plan its construction activities so that work can proceed on other parts of the pipeline before entry on the lands of TEDCO is required. Nevertheless, in order to meet PEC's expectation of service, Enbridge need access to the portion of the route crossing TEDCO's property, and the associated working easements, by no later than October 1, 2007.
14. Enbridge therefore requests that the Board grant authority to expropriate the pipeline easements and temporary working easements at the earliest possible opportunity. Attached hereto as Exhibit A, Tab 3, Schedule 4 is the definition of the limited estate, right and interest that Enbridge requires by the way of pipeline easement and temporary working easements.