



EB-2010-0310

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 varying a condition of approval
of the Decision and Order EB-2009-0187 by which the
Ontario Energy Board granted leave to construct a natural
gas pipeline in the Region of York.

NOTICE OF APPLICATION AND PROCEDURAL ORDER

No. 1

Enbridge Gas Distribution Inc. ("Enbridge") filed an application with the Ontario Energy Board (the "Board") on September 3, 2009, under section 90 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B, (the "Act") for an order granting leave to construct approximately 16.7 kilometres of 406 millimetre (16 inch) diameter Extra High Pressure steel pipeline to deliver natural gas to the York Energy Centre LP ("YEC"), a proposed natural gas generating facility. The Board assigned that application file number EB-2009-0187. On April 5, 2010 the Board found the construction of the proposed pipeline to be in the public interest and granted the leave to construct on the terms and conditions set out in the Decision and Order EB-2009-0187.

On September 30, 2010 Enbridge filed an application with the Board asking that the start date of construction for the pipeline be extended so that the authorization for leave to construct shall terminate December 31, 2011 instead of December 31, 2010. The Board assigned the application file number EB-2010-0310. Condition 1.2 currently reads as follows:

1.2. Unless otherwise ordered by the Board, authorization for Leave to Construct shall terminate December 31, 2010, unless construction has commenced prior to that date.

The Board notes that its jurisdiction in this case is restricted to a consideration of Enbridge's request for an extension of time respecting the Leave to Construct. Matters related to the location, construction, operation or impacts of the generating station are not within the scope of the Board review.

A copy of Enbridge's application and Decision and order EB-2009-0187 are attached as Appendix A and B respectively, to this Notice.

How to Participate

Registered participants in the EB-2009-0187 leave to construct proceeding are automatically deemed registered intervenors in this proceeding. A list of registered intervenors is attached as Appendix C to this Notice.

The Board may order costs in this proceeding. Timelines for filing the cost eligibility requests and any objections by Enbridge to these requests are set out below.

How to Contact Us

In responding to this Notice, please include Board file number EB-2010-0310 in the subject line of your e-mail or at the top of your letter. It is also important that you provide your name, postal address and telephone number and, if available, an e-mail address and fax number. All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

At this time the Board considers it necessary to make provision for the following procedural matters. Please be aware that this procedural order may be amended, and further procedural orders may be issued from time to time.

THE BOARD THEREFORE ORDERS THAT:

1. Intervenors intending to seek cost eligibility status in this proceeding must indicate in a letter to the Board the grounds for eligibility for costs award by **November 4, 2010**. A copy of the letter seeking cost eligibility must be sent to Enbridge.

2. Enbridge may object to cost eligibility requests by filing a letter with the Board and serving a copy to the intervenor by **November 11, 2010**.
3. Intervenors and Board staff who wish information and material from the Applicant that is in addition to the evidence filed with the Board, and that is relevant to the hearing, shall request it by written interrogatories filed with the Board and delivered to the Applicant on or before **November 11, 2010**.
4. The Applicant shall file with the Board complete responses to the interrogatories and deliver them to the intervenors no later than **November 18, 2010**.
5. Intervenors and Board staff who wish to make written submissions on the application shall file the submissions with the Board and deliver them to Enbridge and other intervenors by **December 2, 2010**.
6. Enbridge may reply to any submissions received by filing reply submissions with The Board and serving a copy on all intervenors by **December 9, 2010**.

All filings to the Board must quote file number EB-2010-0310, be made through the Board's web portal at www.errr.oeb.gov.on.ca, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address.

Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.oeb.gov.on.ca. If the web portal is not available you may email your document to the BoardSec@oeb.gov.on.ca. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file seven paper copies. If you have submitted through the Board's web portal an e-mail is not required.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

ADDRESSES

The Board:

Ontario Energy Board
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto ON M4P 1E4

Attention: Board Secretary

Filings: <https://www.errr.oeb.gov.on.ca/>

E-mail: boardsec@oeb.gov.on.ca

Tel: 1-888-632-6273 (Toll free)

Fax: 416-440-7656

The Applicant:

Enbridge Gas Distribution Inc.
500 Consumers Road
Willowdale ON M2J 1P8

Attention: Mr. Norm Ryckman
Director, Regulatory Affairs

E-mail: egdregulatoryproceedings@enbridge.com

Tel: 416-495-5499 or 1-888-659-0685 (Toll free)

Fax: 416-495-6072

Counsel of the Applicant:

Mr. Scott Stoll
Aird & Berlis LLP
Suite 1800, Box 754
Brookfield Place, 181 Bay Street
Toronto ON M5J 2T9

Tel: 416-865-4703

Fax: 416-863-1515

E-Mail: ssoll@airdberlis.com

DATED at Toronto, October 28, 2010

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

APPENDIX A
TO
Notice of Application and Procedural Order No. 1
Enbridge Gas Distribution Inc. Application
Board File No: EB-2010-0310
DATED: October 28, 2010

September 15, 2010

BY COURIER AND EMAIL

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Enbridge Gas Distribution Inc.
Request to Amend Condition of Approval
Board File No: EB-2009-0187**

On April 5th, 2010 the Ontario Energy Board ("OEB") issued a decision and order granting Enbridge leave to construct 16.7 kilometres of 406 millimetre (16 inch) diameter steel pipeline subject to certain conditions which were included in Appendix "A". The conditions of approval included condition 1.2 which is reproduced below.

- 1.2 Unless otherwise ordered by the Board, authorization for Leave to Construct shall terminate December 31, 2010, unless construction has commenced prior to that date.

The York Energy Centre had been the subject of delays related to certain approvals required for the construction of the facility. The Ontario Government recently enacted Ontario Regulation 305/10 Energy Undertakings: Exempt Undertakings (the "**Regulation**") in respect of the York Energy Centre. The Regulation exempts the York Energy Centre from these certain approvals.

With the passing of the Regulation York Energy Centre is moving forward with its project. However, given the time that has elapsed, Enbridge will not be commencing construction in the field prior to December 31, 2010. Materials and equipment are scheduled to be ordered by end-September 2010 and construction will start in early 2011. As such, Enbridge is requesting the Board amend condition 1.2 and insert the date December 31, 2011 in replacement of December 31, 2010.

September 15, 2010
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If there are any questions please contact me at your convenience.

Yours truly,

AIRD & BERLIS LLP

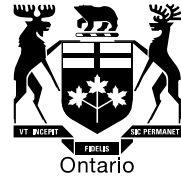


Scott Stoll

SS/hm
Encl.

7160357.1

APPENDIX B
TO
Notice of Application and Procedural Order No. 1
Decision and Order dated April 5, 2010
Board File No: EB-2010-0310
DATED: October 28, 2010



EB-2009-0187

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 pipeline in the Region of York.

BEFORE: Gordon Kaiser
Vice Chair and Presiding Member

Paul Sommerville
Member

Ken Quesnelle
Member

DECISION AND ORDER

Enbridge Gas Distribution Inc. (“Enbridge”) filed an application with the Ontario Energy Board (the “Board”) on September 3, 2009, under section 90 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B, (the “Act”) for an order granting leave to construct approximately 16.7 kilometres of 406 millimetre (16 inch) diameter Extra High Pressure steel pipeline to deliver natural gas to the York Energy Centre LP, a proposed natural gas generating facility. The Board has assigned the application file number EB-2009-0187.

For the reasons set out below, the Board finds the construction of the proposed pipeline to be in the public interest and grants the 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 pipeline route begins at Enbridge's Schomberg Gate Station located at 4955 Lloydtown-Aurora Road and proceeds east along the road allowance of Lloydtown-Aurora Road for approximately 5.5 kilometres to Jane Street. The pipeline then proceeds north along Jane Street for 3.0 kilometres to Highway 9. The pipeline follows Highway 9 eastwards for 4.2 kilometres to Dufferin Street. It then proceeds north along Dufferin Street for 3.6 kilometres and then proceeds east for approximately 0.4 kilometres to the proposed York Energy Centre, located at 18781 Dufferin Street. Construction is scheduled to start in the spring of 2010 with a planned commissioning during the second quarter of 2011 and in-service date in the last quarter of 2011.

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 dated September 22, 2009. The Board proceeded by way of a written hearing.

Intervenor status was granted to the York Region District School Board ("YRDSB") on behalf of Kettleby Public School, York Energy Centre LP ("YEC"), a customer supporting the pipeline approval and Hunter's Green Rate Payers Association, represented by Harten a Division of Harten Group ("Harten"). Harten was the only intervenor who requested and was granted cost award eligibility status and is the only intervenor who actively participated in the proceeding and opposed the approval of the application.

The Board granted Observer status to the Ontario Greenbelt Alliance and to the Global Environmental Action Group, both not-for-profit environmental organizations.

The Board also received letters of comment from Indian and Northern Affairs Canada ("INAC"), York Region Environmental Services Department ("York Region") and Save the Oak Ridges Moraine Coalition ("STORM").

On November 5, 2009 the Board issued Procedural Order No. 1 setting out a schedule for a written proceeding.

On November 27, 2009 the Board issued Procedural Order No.2 with an approved Issues List which set the scope of the proceeding.

Board Staff and Harten filed written interrogatories to Enbridge on December 11 and December 16, 2009 respectively and Enbridge responded on December 21, 2009. Harten filed intervenor evidence on January 8, 2010. Enbridge asked interrogatories on Harten's evidence on January 18, 2010 and Harten responded on January 25, 2010.

Enbridge filed its argument-in-chief on February 8, 2010. Board Staff and Harten filed their respective written submissions on February 12, 2010. Enbridge's reply argument was filed on February 22, 2010. This completed the record of the proceeding.

As part of its submissions, Harten claimed that there exists a conflict of interest among legal representatives of Enbridge in this proceeding. It asserts the conflict arises because members of the same law firm acted for the Ontario Power Authority ("OPA") in its generation procurement process, which resulted in YEC's agreement with the OPA.

Enbridge responded that, in its view, there is no conflict of interest. It argued that the fact that members from the same firm acted for different parties in the two processes does not result in a conflict of interest.

The Board agrees. The two processes referred to have very different elements and there is no inherent conflict. The OPA process was directed to the identification of an appropriate generation solution for York region. The Board's process, that is this proceeding, concerns itself with the leave to construct facilities by the local gas distribution to support the generation solution selected. These are very different regulatory processes, which are merely tangentially related.

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 of the project, the impact on the ratepayers, environmental impact and the impact on land owners.

The Board set out the following four issues as defining 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?

Each of these issues is addressed below.

The Need for the Project

The need for the proposed pipeline is based on the requirement to provide a dedicated gas supply to the YEC generating peaking facility. The YEC has a 20 year Gas Delivery Agreement ("GDA") with Enbridge which supports that need.

YEC has entered into a 20-year agreement with the Ontario Power Authority ("OPA") to generate and supply electricity to Ontario. This agreement was the result of an OPA-administered competitive procurement process as per a directive of the Ontario Ministry of Energy. YEC is an intervenor in this proceeding and as the customer receiving natural gas on the proposed pipeline. YEC supports the need for the project and the approval of the application.

Harten pointed that the Council of the Township of King opposes the location of the YEC within the municipality. Harten provided, in written submissions and as part of its written evidence, a history of the Township's opposition. Specifically, Harten noted that the Township passed an Interim Control By-Law #2010-05 per section 38 of the

Planning Act, R.S.O. 1990 (“Interim By-Law”)¹ which allows the Township to conduct a review of land use policies with respect to power generation facilities. Harten posited that the Township’s unwillingness to host the generating plant was relevant because the pipeline was “an integral component of the generator project” and therefore could not be treated separately when reviewing the leave to construct by the Board.

Enbridge replied that in its view the “...Board’s jurisdiction is limited to the pipeline” and that the generating plant location approvals are outside the scope of EB-2009-1087 proceeding.

The Board noted at the outset of this proceeding, in Procedural Order No. 1, that its jurisdiction in this case is restricted to the review of matters related to the construction and operation of Enbridge’s proposed pipelines. Matters related to the location, construction, operation or impacts of the generating station are not within the scope of the Board review.

Board Staff submitted that there are no outstanding issues related to the need for the pipeline.

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

Project Economics and Ratepayers Protection

The estimated capital cost of the pipeline is about \$ 39 million. An economic evaluation of the project was conducted using the Discounted Cash Flow methodology as set out in the “OEB Guidelines for Assessing and Reporting on Natural Gas System Expansion in Ontario” part of the “EBO 188 Report of the Board” dated January 1998. The Profitability Index (“PI”) of the project is 1.0 over a 20 year customer horizon. This PI is achieved with the inclusion of a Contribution in Aid of Construction (“CIAC”) to be paid by the YEC.

Enbridge’s evidence is that its ratepayers would be protected from financial risks occurring prior to pipeline construction, upon construction and during the operation of the YEC.

¹ The Interim By-Law allows the Township of King to conduct a review of land use policies with respect to power generation facilities (EB-2009-0187 “Harten Consulting-Final Submission” February 15, 2010, page 3, paragraph 5)

Harten outlined concerns with the economics of the project and that the "...ultimate cost of course is borne by ratepayers".² Enbridge responded that other Enbridge ratepayers were protected and would not be subsidizing the YEC with regard to capital cost recovery. Enbridge submitted that there would be no residual depreciation after the 20-year GDA had been completed and there would be no impact on ratepayers. In addition, Enbridge replied that Board approved Rate 125 parameters were such that the revenue from the YEC would be received even if no gas is used by the generating plant.

The YEC also provided financial assurance to Enbridge in the form of an irrevocable Letter of Credit. The economic feasibility of the project is achieved by establishing the CIAC to be paid by the YEC in an estimated amount of \$12.3 million, which amount will be adjusted after the actual cost of construction is determined.

Enbridge also provided evidence that the revenues from the YEC are in accordance with Board approved Enbridge's Extra Large Firm Distribution Service Rate 125 which is the rate in the GDA. This rate is independent of the volume of gas YEC would consume. It protects the ratepayers during the operation of the YEC, because the revenues are based on the billing Contract Demand specified in the GDA. The Contract Demand is a maximum volume contracted that a customer has a right to receive each day. Monthly revenue consists of Monthly Customer Charge (\$500.00), plus Demand Charge (fixed at 9.0093 cents per cubic metre of the Contract Demand per month), plus Direct Purchase Administration Charge (\$50), plus Forecast Unaccounted for Gas Percentage (0.3%).

Board Staff submitted that there are no outstanding issues relative to the ratepayers protection and economics as long as Enbridge adheres to the Conditions of Approval.

The Board finds Enbridge's position to be acceptable and concludes that there is no identified risk to Enbridge's ratepayers related to construction and operation of the proposed pipeline.

The financial protections established for the ratepayers are specified in the GDA. The Board has included in the Conditions of Approval a requirement for Board approval of alterations and amendments to the GDA as follows:

² EB-2009-0187 "Harten Consulting Evidence", January 4, 2010, page 10.

- 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 28, 2009 where such alteration or amendment has or may have any material impact on Enbridge's ratepayers.*

With respect to the Board's monitoring of any changes to the letter of credit related to the costs of construction and CIAC calculation, the Board has included the following as a condition of approval:

- 5.3 *Enbridge shall file with the Board, copies of changes to the York Energy Centre LP's irrevocable bank letter of credit and Contribution in Aid of Construction payments. This filing shall take place not later than 14 days after receipt of change or payment and shall be in place until the end of construction.*

The Board finds that the GDA contains all the necessary terms to protect Enbridge and its ratepayers from the financial harm should the pipeline construction be postponed or cancelled if the YEC is not built.

Environmental Assessment

The proposed route is located entirely within the road allowance. It is located in the area covered by "Oak Ridges Moraine Plan" and the "Greenbelt Plan". The routing and environmental assessment, including proposed mitigation for potential environmental impacts have been completed and filed as evidence in the Environmental Report ("ER"). The ER was prepared by Jacques Whitford Stantec Limited ("Stantec") an independent environmental consultant, retained by Enbridge. The ER and supporting evidence filed in the proceeding relating to the proposed pipeline have been produced in accordance with the "OEB Environmental Guidelines for Hydrocarbon Pipelines and Facilities in Ontario" (2003). The ER was reviewed by the Ontario Pipeline Coordinating Committee ("OPCC") and Enbridge confirmed that it would address any concerns raised in this review. This is addressed in Conditions of Approval-Condition 1.3.

The STORM, in a letter of comment dated October 15, 2009, stated that in their view the assessment of the different parts of the project, such as generating plant and the pipeline should be coordinated under an "umbrella assessment of the need for and potential impacts..." of the pipeline. STORM also noted that it participated in the generating plant selection process and that it continues to support the position of Concerned Citizens of King Township ("CCKT") in questioning the "...the need for the

project and the ability of the process to conform to both the Oak Ridges Moraine Conservation Plan and the Greenbelt Plan.”

INAC, in a letter of comment dated September 21, 2009, stated that it would not be reviewing the project but provided sources of information to assist the applicant with “... inviting interested First Nation communities to participate...” .

York Region, Water Resources Business Unit, in a letter of comment dated October 21, 2009 did not oppose the proposed project but noted that the pipeline must conform to the requirements of the Oak Ridges Moraine Conservation Plan (2001) and the York Regional Plan.

The Board finds that Enbridge has addressed the comments of INAC, STORM and York Region appropriately. The Board also notes that comments of STORM are not directly related to the pipeline approval proceeding but rather comments on the way provincial legislation deals with approvals of all aspects of the generating plant project.

Harten submitted that the Board should not grant its approval until all permits “from third party agencies” are obtained by Enbridge. In particular, Harten addressed the approvals and permits required from: the Lake Simcoe Conservation Authority (“LSCA”) and the Regional Municipality of York (“York Region”).

Harten maintained that environmental studies undertaken for the proposed pipeline project are inadequate. Harten submitted that the potential impacts and mitigation of the proposed pipeline on water resources, fisheries, and wildlife were not adequately addressed. Harten also argued that the application is deficient in that it does not meet many of the legal requirements related to environmental assessment and protection including the *Environmental Assessment Act*.

Enbridge replied that the environmental assessment under the *Environmental Assessment Act* is not applicable to the pipeline project. Enbridge maintains that the ER by Stantec is prepared in accordance with the “*OEB Environmental Guidelines for Hydrocarbon Pipelines and Facilities in Ontario*” (2003). Enbridge updated the pre-filed evidence to include a hydrogeologic assessment³. Enbridge submitted that it has

³ On January 29, 2010 Enbridge filed new evidence-“Hydrogeologic Investigation, Final Report” (Exhibit B, Tab 2, Schedule 5).

undertaken the environmental assessment, the archaeological assessment, hydrological assessment, and the hydrogeological assessment. Enbridge indicated that there has been no specific evidence that Enbridge has failed to meet any of the applicable requirements.

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 would ensure that issues around other permits, approvals and pipeline related environmental impacts and mitigation are fully addressed. The Board is satisfied that the environmental assessment followed the requirements of the Board's Environmental Guidelines. The Board finds that the location, mitigation and monitoring programs associated with the proposed pipeline by Enbridge are acceptable. The pipeline location, mitigation and restoration programs are consistent with the requirements of the Oak Ridges Moraine Conservation Plan (2001) and the York Regional Plan.

Regarding other approvals and permits, including applicable land use and environmental protection approvals for construction and operation of the proposed pipeline, the Board finds that condition 5.1, addresses the matter appropriately:

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.

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

Land Issues

The proposed route is located in the road allowances. Enbridge needs permission from the Ministry of Transportation, the Region of York and the Township of King for the location of the pipeline. Enbridge stated that the approvals by the Region of York have to be acquired from the Engineer/Road Superintendent and that this process has been started and will be completed in time for construction. Also, Enbridge stated that an Encroachment Permit to cross Hwy 400 is required from the Ministry of Transportation

and that it also needs to meet the Township of King's requirements for project construction.

The Board's condition 5.1, that requires that all other approvals be obtained by Enbridge, includes the permits to locate the pipeline within municipal road allowances.

Enbridge submits that temporary easements may be required during the construction if the road allowance is not sufficient to complete construction. For these locations Enbridge stated it would obtain temporary easement agreements in the form approved by the Board.

YRDSB expressed a concern regarding the safe construction and access in the proximity of Kettleby Public School. These concerns were addressed by Enbridge in its submission. Enbridge stated that the pipeline would be located across the road from the Kettleby Public School and that traffic management during construction would be in accordance with the requirements of the Ministry of Transportation.

Harten submitted that the operational safety risk of the proposed pipeline is higher than for other pipelines operated by Enbridge. Harten proposed that a comprehensive disaster contingency plan "...should be prepared by Enbridge and Regulators and made available for public scrutiny and comment before any leave to construct is granted."⁴

Enbridge's evidence is that the proposed pipeline is designed in accordance with 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 safe operation of the pipeline.

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

⁴ EB-2009-0187 "Harten Consulting-Final Submission", February 15, 2010, page 7 paragraph 14.

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 Enbridge 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 16.7 kilometres of 406 millimetre (16 inch) diameter Extra High Pressure steel pipeline, 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, April 5, 2010

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

APPENDIX "A"
TO BOARD DECISION AND ORDER
IN THE MATTER OF EB-2009-0187
DATED April 5, 2010
CONDITIONS OF APPROVAL

EB-2009-0187

**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-2009-0187 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, 2010, 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 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, 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

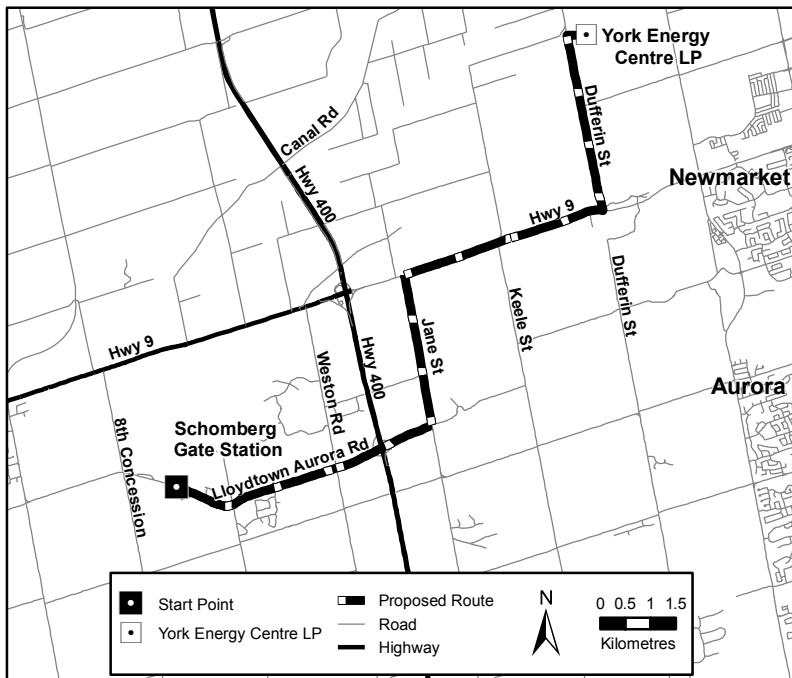
- 5.1 Enbridge shall obtain all other approvals, permits, licences, and certificates required to construct, operate and maintain the proposed project, shall provide a

list thereof, and shall provide copies of all such written approvals, permits, licences, and certificates upon the Board's request.

- 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 28, 2009 where such alteration or amendment has or may have any material impact on Enbridge's ratepayers.
- 5.3 Enbridge shall file with the Board, copies of changes to the York Energy Centre LP's irrevocable bank letter of credit and Contribution in Aid of Construction payments. This filing shall take place not later than 14 days after receipt of change or payment and shall be in place until the end of construction.

APPENDIX "B"
TO BOARD DECISION AND ORDER
IN THE MATTER OF EB-2009-0187
DATED April 5, 2010
MAP OF THE PIPELINE ROUTE

Enbridge Gas Distribution Inc.
York Energy Centre Pipeline Project



APPENDIX C
TO
Notice of Application and Procedural Order No. 1
Applicant and List of Intervenors
Board File No: EB-2010-0310
DATED: October 28, 2010

**Enbridge Gas Distribution Inc.
EB-2010-0310**

APPLICANT & LIST OF INTERVENORS

October 28, 2010

APPLICANT

Rep. and Address for Service

Enbridge Gas Distribution Inc. Norm Ryckman

Director, Regulatory Affairs
Enbridge Gas Distribution Inc.
500 Consumers Road
Toronto ON M2J 1P8

Tel: 416-495-5499

Fax: 416-495-6072

EGDRegulatoryProceedings@enbridge.com

APPLICANT COUNSEL

Scott Stoll

Legal Counsel, External
Aird & Berlis LLP

181 Bay Street

Suite 1800, Box 754

Brookfield Place

Toronto ON M5J 2T9

Tel: 416-865-4703

Fax: 416-863-1515

ssoll@airdberlis.com

INTERVENORS

Rep. and Address for Service

Environmental Defence

Heather Harding

Environmental Defence

317 Adelaide St. West

Suite 705

Toronto ON M5V 1P9

Tel: 416-323-9521 Ext: 224

Fax: 416-323-9301

HHarding@environmentaldefence.ca

**Enbridge Gas Distribution Inc.
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**Global Environmental Action
Group**

Katharine Parsons

Executive Director
Global Environmental Action Group
183 Simcoe Avenue
Keswick ON L4P 2H6
Tel: 905-252-1857
Fax: Not Provided
keparsons@xplornet.com

Harten Consulting

Harvey Tenenbaum

Harten Consulting
1234 Kingston Road
Toronto ON M1N 1P3
Tel: 416-691-4167
Fax: 416-691-8112
h.tenenbaum@hartengroup.ca

York Energy Centre LP

Arie Van Driel

Director, Asset Management
Osler Hoskin & Harcourt
Suite 2250, 35 - 7th Ave. S.W.
Calgary AL T2P 3N9
Tel: 403-218-3746
Fax: 403-444-6784
dvandriel@pristinepower.ca

Gordon Nettleton

Osler Hoskin & Harcourt
450 First Street
Suite 2500
Calgary AB T2P 5H1
Tel: 403-260-7047
Fax: 403-260-7024
gnettleton@osler.com

Enbridge Gas Distribution Inc.

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**York Region District School
Board**

Jane Ross

Manager of Accommodation
York Region District School Board
60 Wellington Street West
Box 40
Aurora ON L4G 3H2
Tel: 905-727-3141
Fax: Not Provided
jane.ross@yrdsb.edu.on.ca