



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.

PROCEDURAL ORDER No. 2

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 a request to amend condition 1.2 of the Board's Decision and Order in EB-2009-0187 to extend the start date of construction for the pipeline from December 31, 2010 to December 31, 2011. 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 issued a Notice of Application and Procedural Order No. 1 ("Notice" or "Procedural Order No.1") on October 28, 2010. Enbridge served the Notice as directed by the Board.

In the Notice the Board deemed all of the participants in the EB-2009-0187 leave to construct proceeding to be registered intervenors in this proceeding. On November 12, 2010 the Township of King requested the intervenor status in the proceeding. The Board granted the intervenor status to the Township of King. A list of registered intervenors is attached as Appendix A to this procedural order.

On November 26, 2010 Enbridge filed with the Board and with all the intervenors a letter withdrawing its application effective November 29, 2010 ("withdrawal request").

Application Withdrawal Request

In the withdrawal request Enbridge stated that on November 18, 2010, in compliance with the Condition 2.3 of the Decision and Order in EB-2009-0187, it delivered to the Board's designated representative and the Chair of the Ontario Pipeline Coordinating Committee written notice that Enbridge intended to commence construction of the pipeline on November 29, 2010. Enbridge noted that this commencement of construction would fulfill condition 1.2 of the Decision and Order in EB-2009-0187. Enbridge stated that given that it complied with condition 1.2, to commence construction by December 31, 2010, a variance of the Decision and Order in EB-2009-0187 would be no longer required.

The Board is satisfied that conditions 2.3 and 1.2 of the Decision and Order in EB-2009-0187 have been fulfilled and that consequently Enbridge does not need to vary condition 1.2 to be in compliance with the Board's Decision and Order in EB-2009-0187. Therefore, the Board approves Enbridge's request to withdraw the EB-2010-0310 application.

THE BOARD THEREFORE ORDERS THAT:

1. The proceeding EB-2010-0310 is closed effective November 29, 2010.
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, December 2, 2010
ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary