

EB-2012-0382

IN THE MATTER OF the Ontario Energy Board Act,
1998, Schedule B;

AND IN THE MATTER OF an Application by Enbridge
Gas Distribution Inc. for an Order pursuant to Section
90 of the *Ontario Energy Board Act, 1998*, granting
leave to construct a natural gas pipeline in the
municipality of Clarington.

BEFORE: Paula Conboy
Presiding Member

Emad Elsayed
Member

DECISION AND ORDER

March 28, 2013

Enbridge Gas Distribution Inc. (“Enbridge”) filed an application with the Ontario Energy Board on November 12, 2012 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 5.6 kilometres (“km”) of high pressure (“HP”) steel pipeline consisting of two sections; one of Nominal Pipe Size (“NPS”) 8 (8 inch diameter; 203 millimetre (“mm”)) in Bowmanville, Ontario and one section of NPS 6 (6 inch diameter; 152 mm) in Courtice, Ontario to provide distribution services to the Durham York Energy Centre (“DYEC”) Facility in Courtice, Ontario and ancillary facilities (the “Proposed Pipeline”). The Board assigned the application file number EB-2012-0382.

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 (the “Conditions of Approval”) set out in this Decision and Order. The Board’s Conditions of Approval are attached as Appendix “A”.

The Proposed Pipeline

Section 1 of the Proposed Pipeline is approximately 2 km in length and begins at the intersection of Gaud Gate and Regional Road 57 in Bowmanville in the Municipality of Clarington. Section 1 travels north along Regional Road 57, turns west along Concession Road 4, where it ends at the intersection of Concession Road 4 and Old Scugog Road.

Section 2 of the Proposed Pipeline is approximately 3.6 km in length and begins at the intersection of Bloor Street and Solina Road in Courtice in the Municipality of Clarington. Section 2 travels south on Solina Road, turns west along Baseline Road, turns south along McKnight, routes beneath Highway 401 to end at 72 Osbourne Road to service the DYEC Facility in Courtice. Enbridge plans to start construction in late April or early May 2013 with an anticipated in-service date of September 2013.

A map showing the location of the Proposed Pipeline is attached as Appendix "B".

The Proceeding

The Board issued a Notice of Application ("Notice") dated November 30, 2012. Enbridge served and published the Notice as directed by the Board. There are no intervenors or observers in this proceeding. In accordance with the procedural schedule, Board staff filed interrogatories on January 25, 2013. Enbridge filed interrogatory responses on February 12, 2013.

Board staff filed a written submission on February 28, 2013. Board staff's submission supported Enbridge's application. Enbridge filed a reply submission on March 7, 2013.

The Public Interest Test

This is an application under section 90 of the Act seeking an Order of the Board 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 works 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, the impact on the ratepayers, the 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 Pipeline

The Proposed Pipeline is driven by the need to provide natural gas service to the DYEC. DYEC is in the process of building a 20 MW energy-from-waste facility and has entered into a 20-year agreement with the Ontario Power Authority to supply base load electricity to the provincial grid.

Natural gas is required to initialize the waste combustion process, as an auxiliary support for emission control and during facility shut down procedures. When natural gas is used, the required maximum hourly flow to the DYEC facility is 6,884 m³ and the point of delivery pressure is 345 kilopascals. Enbridge estimates the annual natural gas consumption to be 604,000 m³/year.

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

Project Economics and Impacts on Ratepayers

The estimated capital cost of the project is \$3.9 million. The customer's Contribution In Aid of Construction ("CIAC") is estimated to be \$3.8 million. The overall feasibility of the project has been determined using the methodology set out in the "*Ontario Energy Board Guidelines for Assessing and Reporting on Natural Gas System Expansion in Ontario*" and the Board's EBO 188 "*Report to the Board*" dated January 30, 1998 ("EBO 188"). The Proposed Pipeline passes the feasibility tests as required in EBO 188. The Profitability Index ("PI") of the project is 1.00 after applying DYEC's CIAC.

The Board finds that Enbridge's evidence on the project economics is acceptable and that the Proposed Pipeline will not introduce any undue negative rate implications for Enbridge's ratepayers.

As the actual construction costs will not be available until the Proposed Pipeline is completed, the Board will require a report from Enbridge on the actual costs of the Proposed Pipeline. Accordingly, the Board has included in Appendix "A" to this Decision and Order, the following as a Condition of Approval:

- 1.5 Within 15 months of the final in-service date, Enbridge shall file with the Board a Post Construction Financial Report which will set out the actual capital costs of the project and will explain all significant variances from the estimates filed in the proceeding.

Environmental Assessment

Pipeline route selection and an environmental assessment were completed in accordance with the *Environmental Guidelines for Locating, Constructing, and Operation of Hydrocarbon Pipelines and Facilities in Ontario* (Sixth Edition, 2011) ("Board's Environmental Guidelines"). The results of routing and the environmental assessment are presented in an Environmental Report entitled "*Pipeline to Supply the Durham York Energy Centre*", dated September 13, 2012 ("ER"). The ER was completed by Stantec Consulting Inc. ("Stantec") and was submitted by Enbridge as part of the pre-filed evidence.

In selecting the preferred route, Stantec assessed potential alternatives for the study area, all of which followed existing road allowances and therefore avoided major environmental and socio-economic constraints. Further, Stantec noted that Section 1

and Section 2 are situated entirely within previously disturbed soils and existing rights-of-way, have fewer residences and businesses and groundwater wells nearby, and are generally less constrained than other reviewed alternatives. As noted by Stantec, the preferred route for section 1 has fewer road crossings, avoids crossing through the Bowmanville Valley Area of Natural and Scientific Interest, and minimizes the number of specimen trees along the route to the extent possible. The route for Section 2 has fewer watercourse and bridge crossings, avoids a highly sensitive watercourse crossing, traverses a smaller length of potentially contaminated lands, and does not have any nearby churches or cemeteries.

Enbridge stated that the Proposed Pipeline will be constructed in accordance with Enbridge's Contract Specifications, Enbridge's Construction and Maintenance Manual, and the recommendations set out in the ER. With implementation of mitigation measures identified by Stantec in the ER, Enbridge expects no significant environmental impacts resulting from construction and routing of the Proposed Pipeline. In addition, Enbridge completed an Environmental and Cumulative Effects Assessment which included an Archaeological Assessment and an environmental implementation plan for the Proposed Pipeline. No outstanding environmental or construction issues were identified.

The Board finds that Enbridge has selected an appropriate route of the Proposed Pipeline, having regard to the Board's Environmental Guidelines, and that Enbridge has also proposed an appropriate mitigation and restoration program to construct the Proposed Pipeline. To ensure mitigation of impacts, and restoration of land and water resources, the Board hereby imposes monitoring and reporting requirements in the Conditions of Approval attached as Appendix "A" to this Decision and Order. Lastly, in selecting the route, Enbridge engaged in public consultations. In reviewing the evidence, the Board is satisfied that there was extensive public consultation, including consultation with Aboriginal groups. The consultations were consistent with the Board's Environmental Guidelines. Enbridge confirmed in its evidence that there are no outstanding or unresolved issues relating to any of its consultations.

Land Issues

The Proposed Pipeline will be installed on lands owned by the Corporation of the Municipality of Clarington. Enbridge stated that it plans to install the Proposed Pipeline within the existing municipal road allowances and therefore does not require any permanent easements. Enbridge filed with the Board forms of the Agreement to Grant

Easement, The Easement Agreement and the Working Area Agreement that Enbridge will offer to the directly affected landowners. Enbridge confirmed that it will obtain the necessary approvals and permits for the construction of the Proposed Pipeline and stated that it will offer the form of easement agreement to landowners in the event an easement became necessary.

Section 97 of the Act requires that the Board approve the form of easement agreement that would be offered to the landowners. The Board approves the proposed forms of agreement included in the evidence, should any easements become necessary.

Pipeline Design – Technical and Safety Requirements

Enbridge provided evidence 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 Z662-03 Oil and Gas Pipeline Systems Code.

The Technical Standards and Safety Authority, as the agency overseeing the operation of pipelines in Ontario, has the authority to implement all the applicable standards.

For the reasons set out above, the Board finds the Proposed Pipeline is in the public interest and grants Enbridge 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 an approximately 2 kilometre section of 203 millimetre diameter (Nominal Pipe Size 8 inch) High Pressure steel pipeline in Bowmanville (Section 1) and an approximately 3.6 kilometre section of 152 millimetre diameter (Nominal Pipe Size 6 inch) High Pressure steel pipeline and ancillary facilities in Courtice to the Durham-York Energy Centre (Section 2), 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, March 28, 2013

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

Appendix A

To the Decision and Order

Dated March 28, 2013

Conditions of Approval

EB-2012-0382**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-2012-0382 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, 2013, 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 members of the Ontario Pipeline Coordinating Committee ("OPCC").
- 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 the actual capital costs of the project and shall explain all significant variances from the estimates filed in the proceeding.

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.

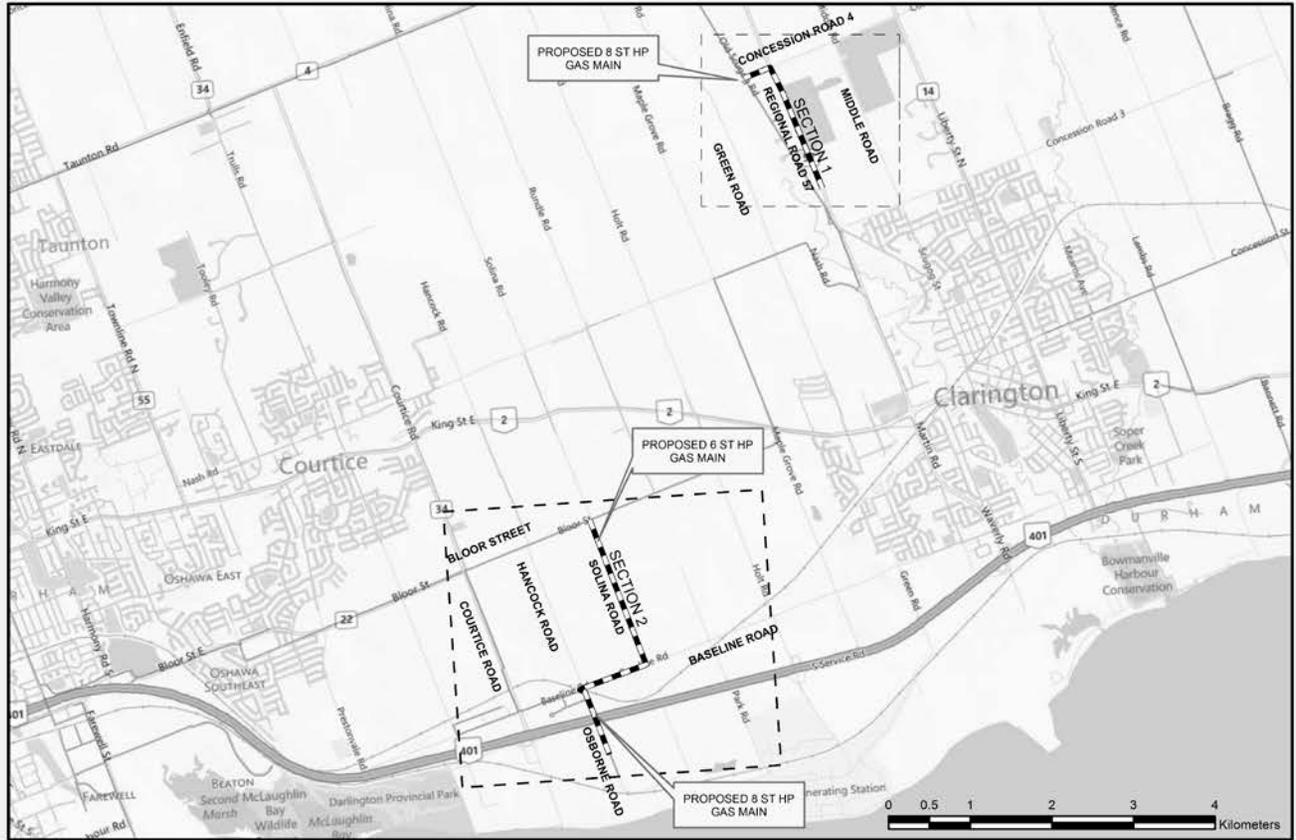
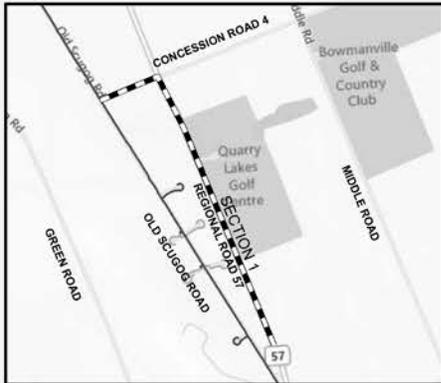
Appendix B

To the Decision and Order

EB-2012-0382

Dated March 28, 2013

Map of the Project Location



Durham York Energy Centre Pipeline

Legend
 - - - Proposed_Route