



EB-2012-0451
EB-2012-0433
EB-2013-0074

IN THE MATTER OF an application by Enbridge Gas Distribution Inc. for: an order or orders granting leave to construct a natural gas pipeline and ancillary facilities in the Town of Milton, City of Markham, Town of Richmond Hill, City of Brampton, City of Toronto, City of Vaughan and the Region of Halton, the Region of Peel and the Region of York; and an order or orders approving the methodology to establish a rate for transportation services for TransCanada Pipelines Limited;

AND IN THE MATTER OF an application by Union Gas Limited for: an Order or Orders for pre-approval of recovery of the cost consequences of all facilities associated with the development of the proposed Parkway West site; an Order or Orders granting leave to construct natural gas pipelines and ancillary facilities in the Town of Milton; an Order or Orders for pre-approval of recovery of the cost consequences of all facilities associated with the development of the proposed Brantford-Kirkwall/Parkway D Compressor Station project; an Order or Orders for pre-approval of the cost consequences of two long term short haul transportation contracts; and an Order or Orders granting leave to construct natural gas pipelines and ancillary facilities in the City of Cambridge and City of Hamilton.

BEFORE: Cynthia Chaplin
Presiding Member & Vice Chair

Marika Hare
Member

Peter Noonan
Member

**PROCEDURAL ORDER NO. 2 and
DECISION ON ISSUES LIST AND COST ELIGIBILITY
May 8, 2013**

The Ontario Energy Board has received three related applications requesting approval for the Applicants to undertake system expansion projects: one filed by Enbridge Gas Distribution Inc. (“Enbridge”) and two filed by Union Gas Limited (“Union”).

Enbridge is seeking approval for the following:

Enbridge GTA Project (EB-2012-0451)

- Leave to construct two segments of pipeline and associated facilities:
 - Segment A - approximately 21 km long and located in the Town of Milton, the City of Mississauga and the City of Toronto, and
 - Segment B - approximate 23 km long and located in the City of Vaughan, the City of Markham, the City of Toronto and the Town of Richmond Hill.
 - The approximate total cost of the project is \$623 million.
- Approval of the methodology that will be applied to develop Rate 322 for transportation services on the proposed Segment A pipeline.

Union Gas is seeking approval for the following:

Union Parkway West Project (EB-2012-0433)

- Leave to construct 750 meters of pipeline and associated facilities, including a standby compressor in the Town of Milton.
 - The approximate total cost of the Parkway West Project is \$200 million.

Union Brantford-Kirkwall Parkway D (EB-2013-0074)

- Leave to construct 13.9 kilometers of pipeline and associated facilities from the City of Cambridge to the City of Hamilton.
- Leave to construct compressor facilities in the Town of Milton at the proposed Parkway West Compressor Station.
- Pre-approval of the cost consequences of two long term short haul transportation contracts on the TransCanada Pipelines Limited Mainline.
 - The approximate total cost of the project is \$204 million.

The Board issued a Notice of Application for both the Enbridge GTA Project and Union Parkway West Project on March 5, 2013. The Board issued a Notice of Application for the Union Brantford-Kirkwall/Parkway D Project on April 12, 2013.

On April 17, 2013, the Board issued Procedural Order No. 1 and its Cost Eligibility Decision for both the Enbridge GTA Project and Union Parkway West Project. Within Procedural Order No. 1 the Board provided dates for both an Issues and Process Conference and an Issues and Process Day.

On April 26, 2013, the Board held an Issues and Process Conference for parties to discuss the Draft Issues List and the process the Board should follow when hearing these applications.

Issues List

On April 30, 2013, the Board held an Issues and Process Day to hear submissions on the draft Issues List and the hearing process. The Board heard submissions on a disputed issue and rendered its decision orally. The Issues List approved by the Board at the hearing is attached at Appendix A.

After the conclusion of the Issues and Process Day, the Board received an intervention request in the Enbridge GTA Project proceeding from the Mississaugas of the New Credit First Nation ("MNCFN"). As MNCFN did not have an opportunity to comment on the Issues List, the Board will allow MNCFN to make submissions on any additional issues it feels should be added to the Issues List. Enbridge and Union Gas will be given an opportunity to respond to any proposed amendments to the Issues List.

Process

At the Issues and Process Day, the Board also heard submissions on the process that should be used to hear the applications. Union Gas and Enbridge proposed that the applications remain separate but that certain process steps be combined, including parts of the oral hearing. The intervenors were generally content with this proposal, but some objected to the proposed timing for intervenor evidence. Their concern was that

the time between receiving interrogatory responses and conducting the technical conference and submitting evidence was too short.

The Board will combine the proceedings. The Board concludes that there are administrative and substantive benefits to combining the proceedings which outweigh any advantage in addressing them separately.

From the Board's perspective a combined proceeding is less cumbersome than three concurrent but separate proceedings. One of the arguments against combining was that there are a number of issues which are unique to each application and do not necessarily engage all of the intervenors. The Board finds that combining the proceedings will not preclude effective scheduling of the oral hearing to ensure that parties need only attend when their issues are to be addressed. This will be done through a Hearing Plan which will be developed in due course.

From a substantive perspective, the Board finds that combining the proceedings is appropriate in light of the related and interdependent nature of the applications. The Board believes that it is important to consider the related issues in a cohesive and rational manner. That is best accomplished through a combined proceeding. The Board further finds that any party that has been accepted as an intervenor in any one of the three proceedings is automatically considered to be an intervenor in all three proceedings.

With respect to timing, Union Gas and Enbridge proposed a schedule which concludes with an oral hearing in July. GEC, on behalf of itself and Environmental Defence, objected to the scheduled date for intervenor evidence and proposed that there be a month between the Technical Conference and the deadline for intervenor evidence. BOMA and the Council of Canadians supported these submissions.

The Board will establish the dates for the process steps at this time, up to the start of the oral hearing. The Board understands the applicants' desire for an expeditious hearing. However, the Board is also mindful of the requirements to conduct a fair proceeding. The hearing schedule balances those requirements. GEC and

Environmental Defence have requested a month from the date of the Technical Conference to prepare their evidence. The Board finds this requested time to be excessive. The Board concludes that three weeks from the date of the interrogatory answers (two weeks from the Technical Conference) is sufficient. This is comparable to the timelines in other large infrastructure proceedings. Intervenors may file interrogatories in advance of the deadline and identify if the responses are necessary for the preparation of evidence. The Board will require the applicants to make reasonable efforts to respond to such interrogatories within 17 days.

CCC proposed that Board staff file its interrogatories first. Union submitted that in its experience the advance filing of interrogatories by Board staff did not reduce the number of intervenor interrogatories. The Board concludes that in this proceeding, staggered interrogatory filings are not the most efficient use of time. Accordingly, Board staff will not file its interrogatories in advance.

The Board will also make provision for a Settlement Conference and then a Pre-Hearing Conference in advance of the oral hearing. The purpose of the Settlement Conference will be to identify whether any issues can be agreed to by all parties. This could result in a settlement of some, or all, of the issues. The conference will also be used to identify issues which do not require further evidence and are therefore suitable for written submissions. The Settlement Conference will not be transcribed and it will not be attended by the panel members. The purpose of the Pre-Hearing conference will be to finalize the Hearing Plan and address any disputes regarding the scope and timing for cross-examination. The Pre-Hearing Conference will be conducted with one or more of the panel members and will not be transcribed.

With respect to intervenor costs, the Board accepts the applicants' proposals, namely that intervenors will track their costs for the related issues separately from the costs for the project-specific issues. The applicants will share the costs for the related issues equally and be responsible for their own project-specific issue costs.

As MNCFN did not have an opportunity to present its views on process at the Issues and Process Day, the Board will allow it to make submissions on the appropriate process, Enbridge and Union Gas will be given an opportunity to respond.

Decision on Intervenor Status and Cost Eligibility

As noted above, the Board finds that any party that has been accepted as an intervenor in any one of the three proceedings is automatically considered to be an intervenor in all three proceedings. The Board has included a combined list of intervenors at Appendix C.

Enbridge GTA Project (EB-2012-0451)

On May 6, 2013 the Board received a request for intervenor status and cost eligibility from the Mississaugas of the New Credit First Nation ("MNCFN"). MNCFN was directly served with the amended Notice on April 26, 2013, and is therefore within the time limit set for interventions.

The Board approves MNCFN's request for intervenor status and cost eligibility. All parties are reminded that only costs that are directly related to the proceeding, and within the scope of the proceeding, will be recoverable.

Union Brantford-Kirkwall/Parkway D Project (EB-2013-0074)

The Board received a number of requests for intervenor and cost eligibility status for the Union Brantford-Kirkwall/Parkway D Project. The Board notes that all parties requesting intervenor status and/or cost eligibility in EB-2013-0074 have already been approved as intervenors in either EB-2012-0451 and/or EB-2012-0433 and therefore are accepted as intervenors in all three proceedings as noted above.

The Board considers it necessary to make provisions for the following matters related to this proceeding. The Board may issue further procedural orders from time to time.

THE BOARD ORDERS THAT:

1. The Board will combine the three related applications: Enbridge Gas Distribution Inc.'s GTA Project (EB-2012-0451) and Union Gas Limited's Parkway West (EB-2012-0433) and Brantford-Kirkwall/Parkway D (EB-2013-0074).
2. MNCFN may file written submissions on the Issues List found in Appendix A, and the process outlined within this Procedural Order, with the Board and serve all parties on or before **Monday, May 13, 2013**.
3. Enbridge Gas Distribution Inc. and Union Gas Limited may respond to any submissions received from MNCFN by **Thursday, May 16, 2013**.
4. Parties and Board Staff wishing to seek further information that is in addition to the pre-filed evidence filed by Union Gas Limited and Enbridge Gas Distribution Inc. shall request it by written interrogatories filed with the Board and served to all parties on or before **Tuesday, May 21, 2013**.
5. The Board requires that interrogatories reference the pre-filed evidence and be filed by issue. Interrogatories should be numbered consecutively throughout and not have new starting points for each issue, or section of issues.
6. Union Gas Limited and Enbridge Gas Distribution Inc. shall file written responses to all interrogatories received from parties and Board Staff on or before **Friday, June 7, 2013**.
7. The Board directs that Union Gas Limited and Enbridge Gas Distribution Inc. to file the responses to interrogatories by issue (instead of by intervenor). Interrogatory responses for each issue shall be grouped by intervenor within each issue.
8. The Board requires that Union Gas Limited and Enbridge Gas Distribution Inc. use reasonable efforts to provide responses to interrogatories received in advance of the deadline within 17 days.

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9. A Technical Conference will be held on **Wednesday, June 12, 2013** beginning at 9:00 a.m. in the Board's North Hearing Room on the 25th Floor at 2300 Yonge Street, Toronto, ON. The Technical Conference will continue on Thursday, June 13, 2013 if necessary.
 10. Union Gas Limited and Enbridge Gas Distribution Inc. will file complete undertaking responses, arising from the Technical Conference, to all parties and Board Staff on or before **Tuesday, June 18, 2013**.
 11. Intervenors who wish to file evidence shall do so on or before **Friday, June 28, 2013**.
 12. Parties and Board Staff wishing to seek further information from the intervenors who filed evidence shall request it by written interrogatories filed with the Board and served on all parties on or before **Friday, July 5, 2013**.
 13. Intervenors who have filed evidence shall file complete responses to all interrogatories and serve them on all parties on or before **Friday, July 19, 2013**.
 14. A Settlement Conference will be held on **Monday, July 29, 2013** beginning at **9:30 a.m.** in the Board's North Hearing Room on the 25th Floor at 2300 Yonge Street, Toronto, ON and may continue on Tuesday, July 30, 2013 if necessary.
 15. Any Settlement Proposal arising from the Settlement Conference shall be filed with the Board no later than 4:45 p.m. on **Tuesday, August 6, 2013**.
 16. A Pre-Hearing Conference will be held on **Thursday, August 8, 2013** beginning at **9:30 a.m.** in the Board's North Hearing Room on the 25th Floor at 2300 Yonge Street, Toronto, ON.
 17. An Oral Hearing will be held at the Board's offices located at 2300 Yonge Street, Toronto, ON on the 25th floor in the **North Hearing Room** commencing on **Monday, August 12, 2013 at 8:30 a.m.**, and will continue as necessary.

All filings to the Board must quote the file number, EB-2012-0451/EB-2012-0433/EB-2013-0074, be made through the Board's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>, 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. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.ontarioenergyboard.ca/OEB/Industry. If the web portal is not available, parties may email their documents to the address below. 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 7 paper copies.

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.

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E-mail: boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273 (Toll free)
Fax: 416-440-7656

DATED at Toronto, May 8, 2013

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

APPENDIX A

**ENBRIDGE GAS DISTRIBUTION INC.
EB-2012-0451**

**UNION GAS LIMITED
EB-2012-0433
EB-2013-0074**

Issues List

APPENDIX A

Enbridge Gas Distribution Inc. - GTA Project (EB-2012-0451)
Union Gas Limited - Parkway West (EB-2012-0433)
Union Gas Limited - Brantford-Kirkwall / Parkway D (EB-2013-0074)

Issues List

A. RELATED ISSUES¹

1. Are the proposed facilities needed? Considerations may include but are not limited to demand, reliability, security of supply, flexibility, constraints, operational risk, cost savings and diversity as well as the Board's statutory objectives.
2. Do the proposed facilities meet the Board's economic tests as outlined in the Filing Guidelines on the Economic Tests for Transmission Pipeline Applications, dated February 21, 2013 and E.B.O. 188 as applicable?
3. Are the costs of the facilities and rate impacts to customers appropriate?
4. What are the alternatives to the proposed facilities? Are any alternatives to the proposed facilities preferable to the proposed facilities?
5. Is the proposed timing of the various components of the projects appropriate?

SPECIFIC ISSUES FOR EACH APPLICATION ²

B. Union Gas Limited - Parkway West (EB-2012-0433)

1. Do the facilities address the OEB Environmental Guidelines for Hydrocarbon Pipelines as applicable?
2. Are there any outstanding landowner matters for the proposed facilities' routing and construction? For greater clarity, landowners include parties from whom permits, crossing agreements and other approvals are required.
3. Are the proposed facilities designed in accordance with current technical and safety requirements?
4. Has there been adequate consultation with any affected First Nations or Metis communities?

¹ Related Issues are issues with interdependencies among two or more of the subject LTC applications.

² The Specific Issues are separate and distinct matters to be considered by the Board in regards to each of the individual projects.

**EB-2012-0451 - Enbridge Gas Distribution Inc.
EB-2012-0333 & EB-2013-0074 - Union Gas Limited**

5. Should pre-approval to recover the cost consequences of the proposed facilities be granted?
6. If the Board approves the proposed facilities, what conditions, if any, are appropriate?

C. Union Gas Limited - Brantford-Kirkwall / Parkway D (EB-2013-0074)

1. Do the facilities address the OEB Environmental Guidelines for Hydrocarbon Pipelines as applicable?
2. Are there any outstanding landowner matters for the proposed facilities' routing and construction? For greater clarity, landowners include parties from whom permits, crossing agreements and other approvals are required.
3. Are the proposed facilities designed in accordance with current technical and safety requirements?
4. Has there been adequate consultation with any affected First Nations and Metis communities?
5. Should the request for pre-approval to recover the cost consequences of the proposed facilities be granted?
6. Should pre-approval of the cost consequences of two long term transportation contracts be granted?
7. If the Board approves the proposed facilities, what conditions, if any, are appropriate?

D. Enbridge Gas Distribution Inc. - GTA Project (EB-2012-0451)

1. Do the facilities address the OEB Environmental Guidelines for Hydrocarbon Pipelines as applicable?
2. Are there any outstanding landowner matters for the proposed facilities' routing and construction? For greater clarity, landowners include parties from whom permits, crossing agreements and other approvals are required.
3. Are the proposed facilities designed in accordance with current technical and safety requirements?

**EB-2012-0451 - Enbridge Gas Distribution Inc.
EB-2012-0333 & EB-2013-0074 - Union Gas Limited**

4. Has there been adequate consultation with any affected First Nations or Metis communities?
5. Should approval of Enbridge's proposed rate methodology for the service to be provided to TransCanada be granted?
6. If the Board approves the proposed facilities, what conditions, if any, are appropriate?

APPENDIX B

**ENBRIDGE GAS DISTRIBUTION INC.
EB-2012-0451**

**UNION GAS LIMITED
EB-2012-0433
EB-2013-0074**

Case Timetable

APPENDIX B

Enbridge Gas Distribution Inc. - GTA Project (EB-2012-0451)
Union Gas Limited - Parkway West (EB-2012-0433)
Union Gas Limited - Brantford-Kirkwall / Parkway D (EB-2013-0074)

Case Timetable
Date: May 8, 2013

	Event	Date
1.	Interrogatories filed	May 21
2.	Interrogatory responses	June 7
3.	Technical Conference	June 12
4.	Undertakings from Technical Conference filed	June 18
5.	Intervenor evidence	June 28
6.	Interrogatories on Intervenor evidence	July 5
7.	Interrogatory responses on Intervenor evidence	July 19
8.	Settlement Conference	July 29
9.	File Settlement Proposal	August 6
10.	Pre-Hearing Conference	August 8
11.	Oral Hearing	August 12

APPENDIX C

**ENBRIDGE GAS DISTRIBUTION INC.
EB-2012-0451**

**UNION GAS LIMITED
EB-2012-0433
EB-2013-0074**

List of Intervenors

**Enbridge Gas Distribution Inc.
EB-2012-0451**

APPLICANT & LIST OF INTERVENORS

May 8, 2013

APPLICANT

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**Enbridge Gas Distribution Inc.
EB-2012-0451**

APPLICANT & LIST OF INTERVENORS

May 8, 2013

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**Enbridge Gas Distribution Inc.
EB-2012-0451**

APPLICANT & LIST OF INTERVENORS

May 8, 2013

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**Enbridge Gas Distribution Inc.
EB-2012-0451**

APPLICANT & LIST OF INTERVENORS

May 8, 2013

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**Enbridge Gas Distribution Inc.
EB-2012-0451**

APPLICANT & LIST OF INTERVENORS

May 8, 2013

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**Enbridge Gas Distribution Inc.
EB-2012-0451**

APPLICANT & LIST OF INTERVENORS

May 8, 2013

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**Enbridge Gas Distribution Inc.
EB-2012-0451**

APPLICANT & LIST OF INTERVENORS

May 8, 2013

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**Enbridge Gas Distribution Inc.
EB-2012-0451**

APPLICANT & LIST OF INTERVENORS

May 8, 2013

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**Enbridge Gas Distribution Inc.
EB-2012-0451**

APPLICANT & LIST OF INTERVENORS

May 8, 2013

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Enbridge Gas Distribution Inc.
EB-2012-0451

APPLICANT & LIST OF INTERVENORS

May 8, 2013

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**Enbridge Gas Distribution Inc.
EB-2012-0451**

APPLICANT & LIST OF INTERVENORS

May 8, 2013

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