

**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 granting leave to construct a natural gas pipeline and related facilities in the City of Thorold in the Regional Municipality of Niagara

**REPLY SUBMISSIONS OF ENBRIDGE GAS DISTRIBUTION INC.**

**October 15, 2008**

**Aird & Berlis LLP**

Barristers and Solicitors  
Brookfield Place, Box 754  
181 Bay Street  
Toronto, ON M5J 2T9

Scott A. Stoll  
Telephone: 416-865-4703  
Facsimile: 416-863-1515

Counsel for Enbridge Gas Distribution Inc.

## **Introduction**

Enbridge Gas Distribution Inc. ("Enbridge" or the "Applicant") filed an application on June 17, 2008 requesting leave to construct approximately 2.9 km of NPS 12 extra high pressure ("XHP") natural gas pipeline (the "Project") in the City of Thorold to supply the natural gas co-generation plant being constructed at the Abitibi Consolidated Inc. plant. As part of the request for leave to construct, Enbridge is also requesting approval of the form easements and other agreements provided at Exhibit D, Tab 2, Schedule 3.

On July 21, 2008, the Ontario Energy Board (the "Board") issued a Notice of Application and Letter of Direction which required the publication of the proceeding and the serving of notice upon certain persons. Publication occurred on Friday, August 1, 2008 in *The Standard*, the paper having the highest paid circulation in the area. An affidavit confirming service on the enumerated parties was sworn on August 12, 2008 and filed with the Board.

Three parties, Hydro One Networks Inc., Thorold Co-Gen L.P. and the Walker Community Development Corporation intervened in this proceeding. No intervenor raised any issues, asked any questions or made any submissions in respect of the proposed Project.

The Board issued Procedural Order No. 1, dated August 27, 2008, that directed this hearing would be conducted in writing and established the timetable for this proceeding. In accordance with Procedural Order No. 1 written interrogatories of the Applicant were to be delivered on or before September 10, 2008. Responses to the interrogatories were due on or before September 24, 2008. Intervenors and Board Staff were given the opportunity to make submissions prior to October 9, 2008 and Enbridge was given the opportunity to respond on or before October 15, 2008.

Only Board Staff posed a series of interrogatories to which Enbridge filed responses onto the interrogatories to be filed by September 23, 2008. No submissions were made by either Board Staff or the intervenors.

These submissions of Enbridge will deal with the following:

- a brief description of the project;
- satisfying the public interest test required for leave to construct;
- form of easement and other land related matters; and
- the draft conditions.

### **The Proposed Project**

Enbridge is seeking leave to construct approximately 3km of NPS 12 XHP distribution pipeline from the TransCanada PipeLines ("TCPL") crossing of Thorold Townline Road to the proposed Thorold Cogen Facility located at the Abitibi-Consolidated Inc. plant. A station will be constructed at the connection to TCPL and the pipeline will travel northerly along Townline Road until Beaver Dams Creek Road where it will proceed in a westerly direction along Beaver Dams Creek Road and Niagara Falls Road. At Allanburg Road the pipeline proceeds northerly to the Thorold Cogen Facility. A map of the proposed pipeline may be found at Figure A-4 of Exhibit B, Tab 2, Schedule 3, a copy of which is attached for convenience.

### **Public Interest**

The granting of leave to construct requires the Board to consider whether or not the Project is in the "public interest". The OEB Act, Section 96, provides:

96.(1) If, after considering an application under Section 90, 91 or 92, the Board is of the opinion that the construction, expansion or reinforcement of the proposed work is in the

public interest, it shall make an order granting leave to carry out the work.

If the Board determines that the project is in the public interest, the statute mandates that the Board grant leave to carry out the work. Therefore, the primary issue before the Board is whether the proposed Project is in fact in the interest.

### **Project Need**

Pursuant to a Ministerial Directive the Ontario Power Authority conducted a request for proposals for combined heat and power projects. Thorold Cogen L.P. entered into a 20 year agreement with the Ontario Power Authority in respect of the proposed combined heat and power facility (the "Facility") to be located at the Abitibi Consolidated Inc. plant. Thorold Cogen L.P. is in the process of constructing the 265 Megawatt (nominal electrical output) combined heat and power plant.

Commercial operation of the proposed combined heat and power plant is scheduled for the first quarter of 2010 with commissioning activities to begin during the third quarter of 2009. Thorold Cogen entered into a gas delivery agreement with Enbridge (Exhibit A, Tab 3, Schedule 5).

When operational the facility will consume 84,903m<sup>3</sup>/hr of natural gas. The current distribution system in the area of the proposed Facility does not possess sufficient capacity to meet the needs of Thorold Cogen.

### **Routing**

In planning pipelines, Enbridge considers the Board's *Environmental Guideline for the Location, Construction and Operation of Hydrocarbon Pipelines (2003)* (the "Environmental Guideline"). Enbridge engaged an experienced environmental consultant, Stantec Consulting Limited ("Stantec") to complete an environmental review (the "Environmental Report") of the proposed pipeline in accordance with the Board's

Environmental Guideline. Enbridge has committed to complying with the mitigation measures recommended by Stantec in the Environmental Report.

As part of the environmental review, Stantec considered eleven different route segments which could be combined into five alternative route options. An extensive public consultation program was conducted by Stantec, including newspaper notices, public mailouts, meetings with various agencies and landowners and three public open house meetings. This public consultation process led to the decision by Enbridge to change from the original preferred route to the alternative preferred route for which Enbridge now seeks leave to construct in this Application. Stantec is of the opinion that no significant adverse environmental or socio-economic will occur with the use of recommended mitigation.

Stantec contacted Indian and Northern Affairs Canada ("INAC") to determine if there were any aboriginal claims that would affect the Project. INAC was not aware of any aboriginal claims or litigation that would be affected by the Project. A list of the inquiries made is provided in the response to Board Staff Interrogatory #8 at Exhibit G, Tab1, Schedule 8.

Enbridge is not aware of any concerns with the proposed route.

### **Project Feasibility to be Completed**

Enbridge used the methodology specified in "*Ontario Energy Board Guidelines for Assessing and Reporting on Natural Gas System Expansion in Ontario*" and the Report of the Board in EBO 188 dated January 30, 1998. In addition, the feasibility analysis has been prepared using the Enbridge's feasibility guidelines approved by the Board in the EB-2007-0614 Application. The economic analysis is performed using a 20 year revenue horizon based upon the Gas Delivery Agreement entered into with Thorold Cogen. The economic analysis was provided in Exhibit E, Tab 1, Schedule 2.

The projected costs of the facilities are approximately \$6,397,224. A detailed estimate was provided at Exhibit C, Tab 2, Schedule 1. In order to ensure Enbridge and the other ratepayers are protected, Thorold Cogen has provided financial assurance in the form of an irrevocable letter of credit to cover the costs prior to Enbridge committing to such expenditures (Exhibit A, Tab 3, Schedule 5, pages 53 and 54; and Response to Board Staff Interrogatory #5 at Exhibit G, Tab 1, Schedule 5).

Thorold Cogen entered the Gas Delivery Agreement and will be a Rate 125 customer, with dedicated service, of Enbridge. For these situations a revenue stream (the "Billing Contract Demand") is developed that will result in a Profitability Index or PI of 1.0 for the Project. This creates a consistent revenue stream that insulates Enbridge from any potential revenue fluctuations that would be associated with volumetric delivery.

### **Land Issues**

The OEB Act, section 97, see below, requires the Board to approve the form of easement that will be offered to landowners.

97. In an application under section 90, 91 or 92, leave to construct shall not be granted until the applicant satisfies the Board that it has offered or will offer each owner of land affected by the approved route or location an agreement in the form approved by the Board.

Enbridge requires approximately 2 acres for the station at the connection to the TransCanada Pipeline ("TCPL") transmission pipeline. Negotiation with the potential landowners is progressing. Enbridge has included a draft agreement of purchase and sale (Exhibit D, Tab 1, Schedule 3, pages 2 to 6).

At this time, Enbridge does anticipate that any easements will be required to construct the pipeline. Enbridge has also filed the forms of easement agreements (Exhibit D, Tab 1, Schedule 3). The easement forms have been approved by the Board in previous leave to construct applications. If in the future Enbridge does require such an easement

it will, subject to the Board's approval requested herein, use the forms included in the evidence. No landowner chose to intervene in this proceeding, raise any concerns or to make any comment regarding the documents filed.

Enbridge is currently in the process of permitting the Project and is not aware of any significant issues that would cause a delay in the issuance of any permit or materially impact the Project. Enbridge will not commence construction until the permits are received from the appropriate approval bodies.

### **Draft Conditions of Approval**

Board Staff provided a draft set of conditions of approval for comment (Board Staff Interrogatory #9 at Exhibit G, Tab 1, Schedule 9). Enbridge indicated that it had no issue with the draft conditions provided and that it would comply with such conditions, if required by this Board

### **Summary**

Enbridge submits this project is in the public interest as this application:

- is required to supply natural gas to Thorold Cogen;
- is the least costly alternative and properly protects Enbridge and its other ratepayers;
- is the environmentally preferred alternative;
- meets or exceeds all regulatory requirements;
- is economically feasible in keeping with the Board pipeline feasibility analysis.

Enbridge requests that this Board:

- approve the form of easement provided in the evidence at Exhibit D, Tab 1, Schedule 3;

- grant leave to construct the pipeline as requested in the Application and subsequent evidence of Enbridge.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED.**

A handwritten signature in black ink, appearing to read "Scott Stoll", is written over a horizontal line.

**Enbridge Gas Distribution Inc,  
by its counsel Scott Stoll**