



**Ontario Energy Board  
Commission de l'énergie de l'Ontario**

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**DECISION AND ORDER**

**EB-2015-0194**

**ENBRIDGE GAS DISTRIBUTION INC.KL**

**Pipeline to Canadian Nuclear Laboratory Chalk River Facility**

**BEFORE: Emad Elsayed**  
Presiding Member

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**October 29, 2015**

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## 1 INTRODUCTION

Enbridge Gas Distribution Inc. (Enbridge) applied with the Ontario Energy Board (OEB) on June 30, 2015 under section 90(1) of the *Ontario Energy Board Act, 1998* (the Act) for leave to construct 8.9 kilometres of 6 inch diameter natural gas pipeline and ancillary facilities (Project) to serve the Canadian Nuclear Laboratory Chalk River Facility (CNL) in the Town of Laurentian Hills, County of Renfrew. The Pipeline route is located in the Towns of Deep River and Laurentian Hills in the County of Renfrew. The construction is planned to start by January 2016. The planned in-service date is October 2016. The proposed route runs along municipal road allowances, private lands and lands of the Department of National Defence (DND).

Enbridge also applied under section 97 of the Act for approval of the form of easement agreements.

For the reasons set out below, the OEB finds that the construction of the proposed Project is in the public interest. The OEB grants leave to construct, subject to the OEB's Conditions of Approval, which are attached as Schedule A.

## 2 THE PROCESS

The OEB issued its notice of application on August 11, 2015. Enbridge served and published the notice as directed. The OEB granted intervenor status to CNL. The OEB proceeded by way of a written hearing. In accordance with Procedural Order No. 1 issued on September 11, 2015, the interrogatory phase was completed on September 25, 2015.

OEB staff filed a written submission on October 2, 2015 supporting Enbridge's application. Enbridge filed its reply submission on October 9, 2015 confirming its acceptance of the Conditions of Approval.

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### 3 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 OEB shall make an order granting leave if the OEB 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 OEB typically examines the need for the project, the project cost and economics, the environmental impacts (including factors such as possible blasting), Aboriginal consultation, and the impacts on land owners. Each of these issues is addressed below.

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## 4 NEED FOR THE PROJECT

The Project was requested by CNL to replace fuel oil, propane, and electric heat with natural gas. According to CNL, the Project would enable it to reduce its operating costs and its environmental footprint. CNL and Enbridge have executed a financial agreement for construction of the Project, subject to the approval of Enbridge's application<sup>1</sup>. CNL supported the approval of the application<sup>2</sup>.

The OEB accepts CNL's evidence related to the need for the Project in terms of cost and environmental advantages. The OEB finds that Enbridge has adequately justified the need for the Project.

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*1 Exhibit E, Tab 1, Schedule 2*

*2 Exhibit A, Tab 3, Schedule 1 Attachment 1 and CNL notice of intervention dated August 9, 2015*

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## 5 PROJECT COST AND ECONOMICS

The estimated cost of the Project is about \$15.5 million.

Enbridge evaluated the economic feasibility of the Project using the Discounted Cash Flow (DCF) methodology set in the “Ontario Energy Board Guidelines for Assessing and Reporting on Natural Gas System Expansion in Ontario” and the EBO 188 “Report of the Board” dated January 30, 1998 (EBO 188). The DCF analysis results in a negative Net Present Value (NPV) and a Profitability Index (PI) below one. To meet a PI of 1, which is the minimum feasibility threshold according to the EBO 188, Enbridge requested that CNL pay an estimated Contribution in Aid of Construction (CIAC) of \$10.7 million.

The amount of the CIAC was agreed upon in a 20-year financial agreement between CNL and Enbridge, dated December 19, 2014 and amended on June 17, 2015 (Financial Agreement). CNL and Enbridge agreed that within approximately 15 months of completion of construction, Enbridge will determine the final CIAC based on the actual construction costs.

The Financial Agreement includes a number of terms and conditions that ensure other ratepayers are protected from subsidizing the costs of construction and risks associated with the costs of construction and a potential default by CNL. Enbridge stated that on or before November 1, 2015 it will obtain financial security in the form of an irrevocable standby Letter of Credit from CNL as protection against a default by CNL<sup>3</sup>.

The OEB is satisfied that Enbridge followed the OEB economic feasibility guidelines. The OEB finds that the cost of the Project is reasonable. The OEB will require a report from Enbridge on the actual costs of the Project in its next 2019 rebasing proceeding, as shown in the attached Conditions of Approval. The OEB also requires Enbridge to confirm, prior to the start of construction of the Project, that it has received CNL’s Letter of Credit.

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<sup>3</sup> Enbridge’s response to OEB staff interrogatory # 5

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## 6 ENVIRONMENTAL ASSESSMENT

An Environmental Report (ER) was completed by Stantec Consulting Ltd. (Stantec) on behalf of Enbridge. The ER followed the process outlined in OEB's "Environmental Guidelines for the Location, Construction, and Operation of Hydrocarbon Pipelines in Ontario" (Sixth Edition, 2011). Enbridge provided the ER for review by the members of the Ontario Pipeline Coordinated Committee (OPCC), local municipalities, First Nations and Métis. Enbridge filed an updated summary of the comments received and has taken action to address all of the issues and concerns raised in the ER review process.<sup>4</sup>

On September 23, 2015, the Ministry of Transportation (MTO) wrote to the OEB and Enbridge advising of the requirements that Enbridge apply with the MTO for an encroachment permit on Highway 17. Enbridge responded by a letter dated September 23, 2015 confirming that it will be filing an encroachment permit with the MTO including all the necessary detailed information.

The OEB finds that Enbridge has adequately addressed the environmental issues through its proposed mitigation and restoration program and its commitment to implement the ER and OPCC recommendations. Enbridge is also committed to adhere to the Conditions of Approval contained in Schedule A related to mitigation and construction monitoring and reporting.

The OEB is aware that other approvals will be required for the Project. The OEB finds that Enbridge's compliance with the Conditions of Approval will ensure that the requirements of other approvals, permits, licences, and certificates are fully addressed.

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<sup>4</sup> Enbridge's response to OEB staff interrogatory # 6

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## 7 POSSIBLE BLASTING

Enbridge's evidence states that although blasting is not anticipated, it may be required at certain route segments. Enbridge described the timing and means of landowner notification and details of the risk management and safety program that Enbridge will implement in the event of blasting<sup>5</sup>. Enbridge proposed to deliver a written notice to directly affected land owners of a minimum of 15 business days prior to blasting. The notice would be provided to affected public utilities and all owners and tenants of property within 500 m of the right-of-way in the vicinity of the blast. The notice will include a blasting schedule, information about the audible blast warning system, and contact name for questions or other concerns. OEB staff recommended a minimum of 3 to 4 week notice would be more appropriate to provide more ample time for affected parties to deal with this eventuality. OEB staff also recommended that Enbridge provide OEB's contact information to any party with unresolved concerns about blasting. Enbridge agreed with these recommendations in its reply submission.

In the event of blasting, Enbridge committed that it would acquire all the necessary permits and will manage risks and safety by adhering to the following standards: (1) EGD Construction and Maintenance Manual, Section 8.8 and (2) AECL Standard 145-2000-STD-005 Excavation, Trenching and Backfilling. Enbridge filed on the record both documents<sup>6</sup>.

The OEB is satisfied that Enbridge will adhere to blasting safety and risk management standards and specifications. The OEB also notes that, according to Condition 4 in Schedule A, Enbridge is required to advise the OEB of any change in approved construction method including change from mechanical rock removal to removal by blasting. The OEB directs Enbridge to provide a minimum of 4 week advance notice to the parties potentially affected by blasting and to provide OEB's contact information to any party with unresolved concerns about blasting.

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<sup>5</sup> Enbridge's response to OEB interrogatory # 3

<sup>6</sup> Enbridge's response to OEB interrogatory # 7

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## 8 ABORIGINAL CONSULTATION

Enbridge notified First Nations and Métis communities that would potentially be affected by the Project. The Algonquins of Pikwàkanagàn First Nation contacted Stantec by letter on July 30, 2015 in which they indicated to Enbridge that the Project is within their traditional territory and therefore Enbridge should provide accommodation and compensation to them.

According to the correspondence log, Enbridge sent a Notice of Study Commencement Letter to the Algonquins of Pikwàkanagàn on February 4, 2014<sup>7</sup>. Enbridge served the Notice of Application on Algonquins of Pikwàkanagàn. They did not request intervenor status. Enbridge is committed to continue communication with the Algonquins of Pikwàkanagàn to address the matters raised. Enbridge has requested and arranged an in-person meeting with the Algonquins of Pikwàkanagàn for October 26, 2015 in order to understand their concerns.

The OEB encourages Enbridge to continue its communication with the Algonquins of Pikwàkanagàn to clarify their concerns and establish a mutual understanding of the Project.

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<sup>7</sup> *Enbridge's response to OEB staff interrogatory # 7, Attachment 2*

## 9 LAND MATTERS

Enbridge will require one easement from a private landowner and one easement agreement with DND to construct the proposed Project. Enbridge provided an update on the status and prospects of negotiations with the private landowner and DND to obtain the requirement easement agreements in time for the start of construction<sup>8</sup>. Enbridge indicated that negotiations with the private landowner have been going well and easement documents have been under review by the landowner. Enbridge anticipates that an agreement will be reached in time, prior to the start of construction. Enbridge also noted that expropriation is an option if no agreement is reached with the private landowner.

Regarding the easement agreement with DND, Enbridge expects to receive DND's letter of intent to grant easement by the beginning of October 2015.

OEB staff notes that Enbridge is working diligently to obtain necessary land rights in time for the start of construction. OEB staff remarks that, if the OEB finds that the application is in the public interest, but land rights are not obtained in time, Enbridge has the option of seeking an expropriation, without delaying proposed construction schedule and in-service date.

Enbridge also applied for OEB's approval of the form of easement Enbridge offered or will be offering to landowners affected by the route of the proposed Project<sup>9</sup>.

OEB staff has no concerns about the form of the easement agreement included in Enbridge's evidence. OEB staff notes that the forms of the easement agreement provided in the evidence of this application were the same as the ones filed with EB-2012-0451 which was approved by the OEB on January 30, 2014.

The OEB approves the proposed form of easement agreement included in the evidence.

The OEB finds that Enbridge has adequately addressed land issues associated with the Project.

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<sup>8</sup> Enbridge's response to OEB staff interrogatory # 4

<sup>9</sup> Exhibit D, Tab 1, Schedule 3, Attachment 2

## 10 ORDER

### THE BOARD ORDERS THAT:

1. Enbridge Gas Distribution Inc. is granted leave, pursuant to subsection 90(1) of the Act, to construct approximately 8.9 km of nominal size 6 inch steel pipeline plus ancillary facilities to service the Canadian Nuclear Laboratory Chalk River Facility in Chalk River. Leave to construct is subject to the Conditions of Approval set forth in Schedule A.
2. Enbridge Gas Distribution Inc. shall pay the OEB's costs incidental to this proceeding upon receipt of the OEB's invoice.

**DATED** at Toronto October 29, 2015

**ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Walli  
Board Secretary

**SCHEDULE A**  
**DECISION AND ORDER**  
**ENBRIDGE GAS DISTRIBUTION INC.**  
**EB-2015-0194**  
**OCTOBER 29, 2015**

**Conditions of Approval**  
**Leave to Construct**  
**Application under Sections 90 of the OEB Act**

**Enbridge Gas Limited**  
**EB-2015-0194**

1. Enbridge Gas Limited (Enbridge) shall construct the facilities and restore the land in accordance with the Board's Decision and Order in EB-2015-0194 and these Conditions of Approval.
2. (a) Authorization for leave to construct shall terminate 12 months after the decision is issued, unless construction has commenced prior to that date.  
  
(b) Enbridge shall give the Board notice in writing:
  - i. of the commencement of construction, at least ten days prior to the date construction commences;
  - ii. of the planned in-service date, at least ten days prior to the date the facilities go into service;
  - iii. of the date on which construction was completed, no later than 10 days following the completion of construction; and
  - iv. of the in-service date, no later than 10 days after the facilities go into service.
3. Enbridge shall implement all the recommendations of the Environmental Report filed in the proceeding, and all the recommendations and directives identified by the Ontario Pipeline Coordinating Committee review.
4. Enbridge shall advise the Board of any proposed change to Board-approved construction or restoration procedures. Except in an emergency, Enbridge shall not make any such change without prior notice to and written approval of the Board. In the event of an emergency, the Board shall be informed immediately after the fact.
5. Enbridge shall file, in the proceeding where the actual capital costs of the project are proposed to be included in rate base, a Post Construction Financial Report, which shall indicate the actual capital costs of the project and shall provide an explanation for any significant variances from the cost estimates filed in this proceeding

6. Both during and after construction, Enbridge shall monitor the impacts of construction, and shall file with the Board one paper copy and one electronic (searchable PDF) version of each of the following reports:
  - a) a post construction report, within three months of the in-service date, which shall:
    - i. provide a certification, by a senior executive of the company, of Enbridge's adherence to Condition 1;
    - ii. describe any impacts and outstanding concerns identified during construction;
    - iii. describe the actions taken or planned to be taken to prevent or mitigate any identified impacts of construction;
    - iv. include a log of all complaints received by Enbridge, including the date/time the complaint was received, a description of the complaint, any actions taken to address the complaint, the rationale for taking such actions; and
    - v. provide a certification, by a senior executive of the company, that the company has obtained all other approvals, permits, licences, and certificates required to construct, operate and maintain the proposed project.
  - b) a final monitoring report, no later than fifteen months after the in- service date, or, where the deadline falls between December 1 and May 31, the following June 1, which shall:
    - i. provide a certification, by a senior executive of the company, of Enbridge's adherence to Condition 3;
    - ii. describe the condition of any rehabilitated land;
    - iii. describe the effectiveness of any actions taken to prevent or mitigate any identified impacts of construction;
    - iv. include the results of analyses and monitoring programs and any recommendations arising therefrom; and
    - v. include a log of all complaints received by Enbridge, including the date/time the complaint was received, a description of the complaint, any actions taken to address the complaint, the rationale for taking such actions.