

# RUETER SCARGALL BENNETT LLP

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November 15, 2013

### VIA E-MAIL

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
Suite 2700  
Toronto, Ontario M4P 1E4

Dear Ms. Walli:

**Re: EB-2012-0433/EB-2012-0451/EB-2013-0074**  
**Written Submissions of 8081 Woodbine Investments Ltd.**

Please find enclosed, the Written Submissions of 8081 Woodbine Investments Ltd. in the above-noted matter.

Yours truly,

**RUETER SCARGALL BENNETT LLP**



Robert G. Miller  
RGM/aw  
Encl.

cc: client

# Ontario Energy Board

**EB-2012-0451**

**EB-2012-0433**

**EB-2012-0074**

**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.

## **ARGUMENT OF 8081 WOODBINE INVESTMENTS LTD.**

### **I. INTRODUCTION**

1. These are the submissions of 8081 Woodbine Investments Ltd. ("8081") on the issues related to the Enbridge GTA Project (EB-2012-0451), the Union Parkway West Project (EB-2012-0433) and the Union Brantford-Kirkwall/Parkway D Project (EB-2013-0074).
2. The Ontario Energy Board ("the Board") combined these three proceedings because of the interrelated nature of the projects.

3. 8081 was originally an intervenor in the Enbridge GTA Project proceeding. When the Board combined the proceedings, 8081 was made an intervenor in the proceedings related to the two Union projects as well.
4. 8081 will limit its submissions to issues related to Segment B of the Enbridge GTA Project (EB-2012-0451) and in particular to Issues D2, which relates to concerns regarding the route, and D6, which relates to the appropriateness of any conditions to be imposed on any approval.
5. Segment B of the proposed Enbridge GTA project involves the installation of a 23 km NPS 36 XHP steel pipeline from the Keele/CNR Station to the Buttonville Station and then south to the to a point near Sheppard Avenue where it would tie in with an existing NPS 36 pipeline. Segment B, also includes an expansion of the existing Jonesville Station. Segment B is shown in Appendix B of Enbridge's Argument-in-Chief.
6. 8081 is the owner of the lands known municipally as 8081 Woodbine Avenue in the City of Markham (the "Subject Lands"). The Subject Lands are legally described as Part of Lot 8, Concession 4, Town of Markham being Parts 1 and 2 on Plan 65R-32626. The Subject Lands are traversed and effectively severed into two separate parcels by Rodick Road, a north-south local municipal collector road.
7. The westerly parcel, being Part 1 on Plan 54R-32626 ("Part 1"), is bounded by Woodbine Avenue on the west, Highway 407 on the north, Rodick Road on the east and the hydro-electric utility corridor on the south.
8. The preferred route for Segment B travels through the hydro-electric corridor immediately to the south of Part 1.
9. The easterly parcel, being Part 2 on Plan 65R-32626 ("Part 2"), is bounded on the west by the City of Markham-owned lands immediately to the east of Rodick Road, on the north by Highway 407, on the east by, a north-south utility corridor and on the south by the hydro-electric corridor. Part 2 has been identified as the preferred location for the proposed Buttonville Station facility to be constructed as part of Segment B.
10. 8081 is an affected landowner from whom lands are required in order to construct Segment B.
11. 8081 and Beaver Valley Stone Limited ("Beaver Valley"), another intervenor in these proceedings, are related companies.
12. Beaver Valley is a landscaping supply business, currently operating at premises located at 25 Langstaff Road in the City of Markham (the "Beaver Valley Lands").

13. The Beaver Valley Lands are located in the south-east quadrant of the intersection of Yonge Street and Highway 407. The Beaver Valley Lands are also in the vicinity of the preferred route for the Segment B pipeline facility comprising part of Enbridge's GTA Project.
14. The Beaver Valley Lands are also part of the area designated as the Richmond Hill/Langstaff Urban Growth Centre (the "UGC") under the provincial Growth Plan promulgated pursuant to the *Places to Grow Act, 2005*.
15. The Growth Plan directs redevelopment of the UGC in a compact, transit supportive, higher density urban form. Significant regional and local official plan and zoning amendments have been approved to implement the Growth Plan policies for the UGC.
16. The owner of Beaver Valley and 8081 purchased the Subject Lands in order to relocate Beaver Valley to the Subject Lands to facilitate the redevelopment of the UGC. 8081 has made significant investments to environmentally rehabilitate the Subject Lands and to submit applications for minor amendments to the Parkway Belt West Plan and the Minister's Zoning Order to permit the relocation of Beaver Valley to the Subject Lands (the "Applications").
17. Enbridge was circulated on the Applications and advised that it had no concerns with their approval. No circulated agency had any concerns with the Applications.
18. Approval of the Applications is expected from the Ministry of Municipal Affairs and Housing imminently.
19. Concurrent with the hearing process, 8081 and Enbridge staff have held discussions regarding the potential acquisition by Enbridge of Part 2. 8081 has advised Enbridge that Beaver Valley's operation can be accommodated on Part 1, however, due to the site configuration, any reduction in the size and/or usable area of Part 1 would severely impact Beaver Valley's ability to utilize the Subject Lands for its operations.
20. In order to assist in streamlining the hearing process and to enable the Board's timelines to be met, at the Preliminary Hearing on September 5, 2013, it was agreed between 8081 and Enbridge that 8081 would not cross-examine Enbridge Panel #4 if it could be confirmed on the record that access to and land requirements from Part 1 were not required by Enbridge. Enbridge indicated that it would file a letter confirming such information with the Board. (Transcript, page 28, lines 12-23)

## II. ARGUMENT

1. 8081 takes no position on the Union Brantford-Kirkwall/Parkway D Project or Union's Parkway West Project facilities application. 8081 also takes no position on Union's request for pre-approval of the costs consequences of the two long-term short-haul transportation contracts.
2. Enbridge and 8081 continue to discuss the use of Part 2 for the proposed Buttonville Station which is part of the Enbridge GTA Project.
3. On September 24, 2013, the solicitors for Enbridge filed a letter confirming that Enbridge "does not require land rights from 8081 in respect of Part 1." Plan 65R-32626 was attached to the letter filed.
4. Given that evidence, 8081 submits that, in the event the Board decides to approve the Enbridge GTA Project, it would be appropriate for the Board's Decision to include either a provision or a Condition which specifically indicates that such approval does not authorize Enbridge to expropriate any lands or interest in lands, either permanent or temporary, from Part 1. 8081 requests that the Decision specifically include such a provision or Condition. The inclusion of such a provision / Condition would eliminate any possibility that subsequent detailed design changes could be characterized as being substantially in accordance with the plans approved and could be used to justify the expropriation of land or an interest in land comprising all or part of Part 1, contrary to the evidence submitted, and to the detriment of 8081.

All of which is respectfully submitted this 15<sup>th</sup> day of November, 2013.

*Robert G. Miller*

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Robert G. Miller, Rueter Scargall Bennett LLP  
Solicitor for 8081 Woodbine Investments LTD.