



DECISION

IN THE MATTER OF an application by Enbridge
Gas New Brunswick Inc., for a permit to construct
in the Town of Sackville, New Brunswick.

July 19, 2007

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BOARD:

CHAIRMAN
VICE-CHAIRMAN

Mr. Raymond Gorman, Q.C.
Mr. Cyril Johnston

MEMBERS:

Ms. Constance Morrison
Mr. Steve Toner

STAFF:

Ms. Ellen Desmond
Mr. Douglas Goss
Mr. Todd McQuinn
Ms. Lorraine Légère
Ms. Juliette Savoie

APPLICANT:

Enbridge Gas New Brunswick Inc.

Mr. Len Hoyt
Mr. Patrick Wall
Mr. Dave Carleson
Mr. Ed Armstrong
Mr. Greg Johnson

No Interventions Received

Enbridge Gas New Brunswick Inc. (the “Applicant”) applied to the New Brunswick Energy and Utilities Board (“Board”) for a permit to construct a pipeline in the Town of Sackville, New Brunswick in order to provide natural gas distribution to that community. This application was made pursuant to the *Pipeline Act, 2005* (the “Act”).

In conjunction with the application, a Public Information Program (“PIP”) had been filed and was approved by the Board on February 21, 2007.

A pre-hearing conference was scheduled for Sackville, New Brunswick on July 19, 2007. Notice of this pre-hearing conference had been published pursuant to the Board Order of June 20, 2007. There were no filings of intervention in this matter prior to the pre-hearing conference, nor did any parties attend the pre-hearing in opposition to the application for a permit to construct the pipeline.

It is noted that letters of support for the project were received from two parties, namely the Greater Sackville Chamber of Commerce and the Town of Sackville.

During the course of the pre-hearing conference, the Applicant made a Motion that the Board move from the pre-hearing conference to the hearing of the application and requested that the Board order that a permit to construct be issued immediately. The Applicant’s Motion was based on the following factors:

- No intervenors appeared in opposition to the application.
- The only letters that were received concerning the project were supportive.
- The Pipeline Co-coordinating Committee conducted a very thorough review and signed off on the project, subject to specific conditions.
- The Board has granted construction permits to the Applicant since 2000 and has lots of experience with its construction practices.
- It is important for the Applicant to begin construction as soon as possible as the shortness of construction season is a concern.

The Board raised the issue of proof of insurance as required by Section 20 of the *Act* which prevents the Board from issuing a permit or license unless the person is insured against any liability that the person may incur in constructing or operating the pipeline in an amount approved by the Board.

The Applicant provided a Certificate of Insurance to the Board at the hearing from Jardine Lloyd Thompson Canada which provided the following coverage:

| Schedule of Insurance(s) | | | |
|---|--|-----------------------------------|---|
| Type of Insurance | Insuring Company and Policy Number | Policy Dates | Limit of Liability/Amount of Coverage |
| Commercial General Liability | American Home Assurance Company (By authority of AIG Risk Management) Policy # 984 8987 | May 1, 2007 – May 1, 2008 | CAD2,000,000 inclusive limit any one accident or occurrence CAD4,000,000 general aggregate |
| Umbrella Liability | American Home Assurance Company (By authority of AIG Risk Management) Policy # 984 8988 | May 1, 2007 – May 1, 2008 | CAD45,000,000 each occurrence and in the aggregate with respect to Products and Completed Operations Liability excess of underlying |
| Energy Package (All Risk Property and Boiler & Machinery) | American Home Assurance Company (By authority of AIG Risk Management) Policy # 984 8989 | May 1, 2007 – May 1, 2008 | CAD12,500,000 |
| Automobile Insurance | American Home Assurance Company (By authority of AIG Risk Management) Policy # 984 8966 | January 1, 2007 – January 1, 2008 | CAD2,000,000 inclusive limit Third Party Liability |
| Terms and Conditions | | | |
| All insurers listed are licensed to conduct business in the Province of New Brunswick | | | |

The Board requested that the Applicant provide a full copy of the policy of insurance and an undertaking to that effect was provided by Len Hoyt, the Applicant's counsel. In addition, Mr. Hoyt undertook to provide information with respect to whether any of the policy limits shown above may have been reduced by paid claims/expenses.

The Applicant also requested that the Board use its exempting powers under Section 5(1) of Regulation 2006-3 under the *Act*, known as the Pipeline Filing Regulation, to the extent that it is necessary and/or appropriate.

The Board considered the Motion from the Applicant for a Permit to Construct a pipeline in Sackville, New Brunswick in order to provide natural gas distribution to that community and determined that the Permit to Construct as requested would be issued forthwith, subject to the fulfillment of the two undertakings relating to insurance that were given by Mr. Hoyt and subject to the following conditions:

1. Subject to Condition (3), Enbridge Gas New Brunswick (EGNB) shall comply with all undertakings made by its counsel and witnesses, and shall construct the facilities and shall restore the land according to the evidence of its witnesses at this hearing and in accordance with the Gas Distribution Act, 1999, the Pipeline Act, 2005 or any other applicable legislation.
2. EGNB shall comply with all written commitments and clarifications made during review by the Pipeline Coordinating Committee (PCC).
3. The Board's designated representative for the purpose of these conditions shall be the Director of Safety, or in his/her absences the Board's secretary. EGNB shall advise the Board's designated representative of any proposed significant change in construction or restoration procedures, and except in an emergency, EGNB 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 forthwith.
4. EGNB shall furnish the Board's designated representative with every reasonable facility for ascertaining whether the work has been, and is being, performed in accordance with the Board's Order.
5. EGNB shall notify the Board's designated representative of the date on which any installed high and extra-high pressure pipeline is proposed to be pressure tested at least 72 hours prior to the start of the test.
6. Both during and after construction, EGNB shall monitor the effects upon the land and the environment.

7. EGNB shall give the Board's designated representative and the Chairman of the PCC ten days written notice, in advance of the commencement of construction, unless said construction is to commence within ten days of receipt and in such an event shall be as soon as possible.
8. In the case of infill, EGNB shall file written notification in the approved format to the Board's designated representative of the pending construction of high and extra high-pressure steel and high-pressure polyethylene pipelines.
9. EGNB shall designate one of its employees as project manager who will be responsible for the fulfillment of undertakings on the construction site and shall provide the name of the project manager to the Board's designated representative.
10. Where properties or structures exist within 200 metres of the pipeline and blasting is necessary, EGNB shall:
 - i. Use restricted blasting techniques by ensuring that all charged areas are covered with blasting mats to eliminate fly rocks;
 - ii. Have the vibrations from blasting operations monitored and measured by a vibration measurement specialist;
 - iii. Notify all property owners within 200 metres of the proposed blasting in writing at least 24 hours prior to the blasting and confirmation (if necessary) of the actual day or days on which blasting will occur;
 - iv. Have buildings within 200 metres of the blasting checked by an independent examiner before and after operations to check for problem areas.
11. Where blasting is required, the well location and water quality of all wells within 200 metres of the pipeline shall be tested before and after blasting operations.
12. EGNB must immediately notify the Manager of the Water Sciences Section (506 457-4844) of any complaints received regarding water quantity or quality problems.
13. In the event that domestic wells are impacted, EGNB shall provide a water supply to the homeowners until the problem is resolved. This includes, but is not limited to, the provision of potable water and the remediation or replacement of any impacted domestic wells. If an agreement as to the cause of the water problems cannot be reached between

EGNB and the resident(s), Department of Environment and Local Government will provide third party arbitration.

14. No fuelling of vehicles or storage of petroleum products shall occur within 30 m of any domestic wells.
15. Any abandoned wells found during this project will be reported to the Moncton Regional Water Planning Officer.
16. EGNB shall assess all pipeline construction routes with respect to environmental requirements and develop Site Specific Environmental Protection Plans (SSEPP) as required, including for wetlands. EGNB shall obtain all required environmental permits.
17. EGNB shall monitor Total Suspended Solids (TSS) and take appropriate corrective action where appropriate.
18. EGNB shall take immediate corrective action upon being notified of deficiencies in environmental protection measures by an environmental inspector (from any agency).
19. EGNB shall conduct appropriate surveys for species of special status unless it is clear that the method of construction will have no potential impact on the critical habitat for these species.
20. In the event of construction through identified wetlands, EGNB shall ensure monitoring of wetland mitigation is conducted as part of the Environmental Effects Monitoring (EEM) program that includes at least one year of monitoring post-construction unless additional follow-up monitoring is required. The EEM program for wetlands shall not be limited to TSS monitoring.
21. Unless the Board otherwise directs, EGNB shall maintain at its Fredericton office, copies of any permits, approvals or authorizations for the applied-for facilities issued by federal, provincial and other permitting agencies, which include environmental conditions or site-specific mitigative, monitoring and restorative measures. In addition, EGNB shall maintain at its Fredericton office, an information file(s) that would include any subsequent variation to any permits, approvals or authorizations obtained prior to, or following, the commencement of construction.
22. Unless the Board otherwise directs, EGNB shall maintain for audit purposes, at its Fredericton office, a copy of the joining procedures and non-destructive testing procedures used on the project, together with all supporting documentation.

23. In areas of acid rock, EGNB shall comply with the Acid Road Drainage Mitigation Program developed by EGNB.
24. As the preferred crossing option at all crossings, EGNB shall avoid in-stream work. Any departure from this approach will require the provision of an adequate rationale to the Department of Environment.
25. Unless the Board otherwise directs, EGNB shall submit semi-monthly construction reports during the construction season for systems to be constructed under this permit and such other reports as requested by the Department of Energy from time to time.
26. EGNB shall submit its Emergency Procedures Manual to the Emergency Measures Organization for review prior to filing an application for a Licence to Operate the proposed facilities.
27. EGNB shall submit the construction details of the custody transfer station to the Board prior to the start of construction.
28. EGNB shall submit design details and specifications for any boiler and pressure vessels to the Manager, Gas Inspections of the Technical Inspection Services branch of Public Safety for review prior to construction.
29. EGNB shall ensure that the pipeline alignment remains within 1 – 2 metres of the Right-of-Way of Route 940 outside of municipal limits of the Town of Sackville, except the Route 2 Right-of-Way, where practicable.
30. EGNB shall file with the Board the executed Municipal Operating Agreement prior to the start of any construction within the municipal limits of the Town of Sackville.

In addition the Board grants the Applicant's request that they be exempted from Subsections 5(2) to 5(14) of the filing regulation to the extent set out in the Table of Concordance found in Table G of Exhibit number 1.

Dated at the City of Saint John, New Brunswick this 19th Day of July, 2007

Original Signed By

Raymond Gorman, Q.C., Chairman

Original Signed By

Cyril W. Johnston, Vice-Chairman

Original Signed By

Steve Toner, Member

Original Signed By

Constance Morrison, Member