

IN THE MATTER OF AN APPLICATION DATED JANUARY 13, 2003
BY ENBRIDGE GAS NEW BRUNSWICK INC. FOR A PERMIT TO
CONSTRUCT A PIPELINE TO THE TOWN OF ST. STEPHEN

St. Stephen, N.B.

March 24, 2003, 10:00 a.m.

BEFORE:

David C. Nicholson, Chairman

Alyre Boucher, Vice-Chairman

David S. Nelson, Commissioner

Emilien LeBreton, Commissioner

BOARD STAFF:

Doug Goss

John Lawton

BOARD COUNSEL:

William F. O'Connell, Esq.

Ms. Ellen C. Desmond

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CHAIRMAN: This is in the matter of an application dated the
13th of January, 2003 by Enbridge Gas New Brunswick Inc.
for a permit to construct a pipeline to the Town of
St. Stephen.

I will ask for the appearances just before we get

started. For the applicant, Enbridge Gas New Brunswick?

MR. MACDOUGALL: Yes, Mr. Chair. It is David MacDougall, counsel for Enbridge Gas New Brunswick. And I'm joined today, immediately next to me by Andrew Harrington.

Mr. Harrington's title is a little different than you usually see. At the moment he is Interim Manager of Retail Development. Next to him is Mike Gruttner. Since Andy isn't in his normal position, Mike is now the Interim Manager, Operations.

Next to him is Mr. Peter Seheult. He is Manager of Planning and Technical Services. Behind me and to the left is Gregg Black, Manager of Engineering and Logistics. And next to Mr. Black is Mr. Mike Riley from Dillon Consulting.

CHAIRMAN: Thank you, Mr. MacDougall. I hope in his new position Mr. Harrington is still off the cigarettes.

MR. MACDOUGALL: I understand that is not the case, Mr. Chair. But we are working on it.

CHAIRMAN: The Department of Natural Resources and Energy?

MR. KNIGHT: Jim Knight, Mr. Chairman.

CHAIRMAN: Thank you, Mr. Knight. Flakeboard?

MR. GALLANT: Barry Gallant and Tex Giddens.

CHAIRMAN: Thank you, Mr. Gallant. St. Stephen Development Board Inc.?

MR. SAUNDERS: Donald Saunders.

CHAIRMAN: Mr. Saunders. And the Town of St. Stephen?

MS. KNIGHT: Brenda Knight.

CHAIRMAN: And we have Board counsel with us today.

MR. O'CONNELL: William O'Connell, Mr. Chairman. With me,
Ellen Desmond.

CHAIRMAN: And of course we have John Lawton and Doug Goss
from Board staff as well.

Turn first to the matter of interventions. The Board
has read through the various interventions. Mr. Saunders,
our understanding is that St. Stephen Development Board
Inc. simply wishes to be an informal intervenor, is that
correct?

MR. SAUNDERS: Yes, Mr. Chairman.

CHAIRMAN: Okay. Mr. Knight, we have taken a look at your
intervention, and subject to what you have to say, the
Board is inclined not to allow your intervention as a
representative of the Department of Natural Resources and
Energy. And I will give you the background on that, is
that we have looked at what is in your intervention.

And it is the Board's opinion that it should be the
exception rather than the rule that a provincial
government -- and your Department of Natural Resources
represents the government because there is really no legal

entity as Department of Natural Resources. So you represent the government. The government should not appear before a provincially-constituted tribunal as a general rule, but rather an exception.

Certainly what you have set forth, sir, in your intervention is something that the Board is acutely interested in. And frankly, the Gas Distribution Act, sometime between now and year 7, we are supposed to inquire into how the applicant has performed in reference to those various undertakings it made when applying for and receiving the general franchise.

However, I will conclude by saying we are perfectly prepared to allow you to be an intervenor as a resident of the Town of St. Stephen. So that choice is yours, sir, as to how you want to proceed.

Anyway, just to reiterate, we feel that the government should be here on the exceptional basis rather than the general basis, and that is all.

Flakeboard, we will accept your intervention, Mr. Gallant. We of course will allow St. Stephen Development Board Inc. to be here as an informal intervenor and Ms. Knight as representing the Town of St. Stephen as a formal intervenor.

Now I want to give you that opportunity, Mr. Knight.

If you want to become an intervenor as an individual resident of the Town of St. Stephen, please feel free.

MR. KNIGHT: I think the Town of St. Stephen is well represented.

CHAIRMAN: Thank you. All right, Mr. MacDougall?

MR. MACDOUGALL: Yes, Mr. Chair. I have a bunch of preliminary matters. To start with, I would like to file affidavits of publication and documents.

CHAIRMAN: Mr. MacDougall, you have reviewed the various affidavits and the contents?

MR. MACDOUGALL: I have not, Mr. Chair. But they are sworn by people who did do so. And Mr. Hoyt prepared the --

CHAIRMAN: Mr. Hoyt did? Did he take the signatures, sir?

MR. MACDOUGALL: No. Different people took the different signatures, Mr. Chair. They are all indicated on here by name.

CHAIRMAN: Okay.

MR. MACDOUGALL: And they are all --

CHAIRMAN: We will take a couple of minutes to see if they comply with -- what I will do is I will mark them, put them on the record. And I will look at them after.

I will take -- I will presume that they have been -- that the order of publication has been complied with and that those prove it.

MR. MACDOUGALL: My understanding is that was the case, Mr. Chair. And I believe attached to them in each case is the documents that will support that.

The first one is an affidavit of publication dealing with publication in The Telegraph Journal and the St. Croix Courier.

CHAIRMAN: That is the St. Croix.

MR. MACDOUGALL: The next one, Mr. Chair, because of the unique nature of some of the filings that have to occur under the Gas Distribution Act, it was filed with various Ministers and departments.

CHAIRMAN: I have simply initialled those, Mr. MacDougall. And they form part of the record.

MR. MACDOUGALL: Thank you. The final one, Mr. Chair, is an affidavit with respect to the special notice that you required -- the publication in the Town of St. Stephen, Municipal Office, and the St. Stephen Superstore.

And again, Mr. Chair, I believe it was done by different people. That is why there is a separate affidavit.

I do have to apologize, Mr. Chair. I should have said at the outset I am a stand-in for Mr. Hoyt.

CHAIRMAN: Well, I hope he is somewhere warmer.

MR. MACDOUGALL: He is. He is somewhere much warmer, yes,

that's my understanding. Mr. Chair, the next document we have for filing is arising out of the Pipeline Coordinating Committee. There were amendments requested by various parties through that process to the EPP. I have those amendments here. I will file them with the Board.

And in each package of materials there is three documents. One is a summary of why the amendments were made, who indicates the comments of the organization that had requested the amendment and where the amendment is made. The second group of pages are black lined pages showing the actual amendments to the Environmental Protection Plan. And the last group of pages in each one of these packages are clean copies that can be slip-sheeted into the application.

And there is a covering letter with these addressed to Ms. Legere.

CHAIRMAN: How would you suggest we handle those, Mr. MacDougall?

MR. MACDOUGALL: Mr. Chair, I think they should just be made an exhibit. And they are amendments to the Environmental Protection Plan. So they form part of the application. So they should be an exhibit.

CHAIRMAN: Environmental Protection Plan is A or B?

MR. MACDOUGALL: It is full exhibit B. So it is not a schedule. It is document -- it is the second binder, exhibit B.

CHAIRMAN: The letter dated March the 24th addressed to the Board Secretary and signed by Mr. Hoyt has attached to it a number of copies of course.

I'm just going to mark the one set. And they are amendments, as I understand it, to the application as filed including exhibits A and B, is that correct?

MR. MACDOUGALL: The amendments are all to exhibit B, Mr. Chair.

CHAIRMAN: All B? Okay. Those are amendments to B. And the Board Secretary will amend the original filings in B to be amended by this exhibit. And it will be A-1.

So that is 11 pages with the letter which will be A-1.

MR. MACDOUGALL: Thank you, Mr. Chair. The next item, Mr. Chair, is just an update for the Board, just to let the Board be aware that a municipal operating agreement has been entered into by the Town of St. Stephen and Enbridge Gas New Brunswick.

And that agreement is made as of January 23rd 2003. I believe at the time of the application that had not yet been entered into.

CHAIRMAN: Great.

MR. MACDOUGALL: The next point, Mr. Chair, I will have to give a little explanation for this because of your comments this morning to Mr. Knight. Mr. Knight in his intervention, which is no longer an intervention formally before this Board, did raise some questions with respect to infill.

In response to Mr. Knight, Enbridge sent a letter, I believe it was last Friday, March 21st, addressing those concerns. And we subsequently spoke with Mr. Knight today who had indicated that this letter put on the record would satisfy those concerns.

The reason I raise this, notwithstanding the fact that his intervention has been withdrawn, is these are the similar concerns raised by the Town. We also spoke with Ms. Knight. And Ms. Knight is also satisfied with this letter.

So I only have one copy of the letter here today, Mr. Chair. Because we were unsure whether the parties were going to be satisfied with it.

I would purport this is directed to Mr. Knight, which may not be in the final form. But what I would suggest I do now is just read the body of the letter into the record. And I understand Ms. Knight will then confirm that this is satisfactory for the purposes of --

CHAIRMAN: Go ahead, Mr. MacDougall.

MR. MACDOUGALL: "Further to recent discussions between our offices, Enbridge Gas New Brunswick wishes to provide the following information relating to our St. Stephen construction application. Our intention is to provide gas service to customers within the Town of St. Stephen downstream of Flakeboard through an infill program in the same manner as we are serving other communities. The most likely route for the initial phases of infill includes routing the gas main along Church Street, Milltown Boulevard and King Street to serve Ganong Bros. This route is preferred as it allows access to high-density commercial customers including the hospital. Our plan is to build this portion of main in 2004, assuming that Ganong Bros. signs a service application with us. As stated in the application, EGNB expects to commence infill to the business park as early as 2003. Additional infill of these routes will be based on market demand and the availability of an infrastructure to deliver on the demand. Our plan is to infill in St. Stephen at a similar pace as we are infilling in the other communities we are serving."

And Mr. Chair, I believe Ms. Knight can respond if that satisfies her.

CHAIRMAN: Just so I understand, you would have to go down Prince William to go to the hospital?

MR. MACDOUGALL: I think, Mr. Chair, I will have to defer to one of my colleagues here. That is correct, Mr. Chair.

CHAIRMAN: And is that all contingent upon Ganong Bros. signing an agreement? That is what I heard when you read it.

MR. MACDOUGALL: Again, Mr. Chair, maybe Mr. Harrington or Mr. Seheult are best disposed to answer those questions than I.

MR. HARRINGTON: This letter was written by Mark Butler, the Marketing Manager of Enbridge Gas New Brunswick. And that is the way his letter reads.

Generally we build our infill based on market demand. So that portion of pipeline I know is identified in our 2004 forecast.

And we are quite optimistic about Ganong Bros. However, we would not go forward with that in 2004 until we had that customer signed up.

CHAIRMAN: I don't know. Ganong Bros. and Ms. Knight may. Their energy demand -- certainly their letter is in our binder here. But they have not yet analyzed it.

But I look at both the Charlotte Mall, which I understand is expanding, and the high school and the

hospital are all there, too. That is why I ask that question, if it is all contingent upon that.

MR. HARRINGTON: No. If there were other markets that were going to be willing to come on, we would expand as well. Right now the significant market at the end of that route is the Ganong Bros.

So you know, as a simple matter, if they were to sign up, we would be building that pipeline. As a little bit more complex matter, if there were enough other customers that were demonstrating interest, we would be moving forward in the same time frame.

CHAIRMAN: And I know that you are prepared to take the line out, number one, some distance. Or that certainly is what is on the plans that I have looked at.

MR. HARRINGTON: The answer is yes. That is correct.

CHAIRMAN: Ms. Knight, do you have any comments on that?

MS. KNIGHT: Yes. Thank you, Andrew. And the Town would be agreeable. We would hate to see it if it was only Ganong's you are balancing this on.

But if there is other customers out there that you would be willing to bring natural gas to, the Town would be agreeable to that.

And we just want to see our Town have the option, residents and commercial businesses to have the natural

gas come to their place of business.

CHAIRMAN: I take it then that that satisfies the Town of St. Stephen's concerns. Is that in accordance with what we have just discussed?

Anything else, Mr. MacDougall?

MR. MACDOUGALL: Yes, Mr. Chair. Mr. Chair, the only final point is that the application as amended by the amendments today is now before you.

Our understanding is that it has been vetted through the Pipeline Coordinating Committee and that the responses -- various responses have been addressed by amendment made today and by their letters that were sent by Enbridge to Mr. McQuinn on behalf of the committee. And those have been shared with the other committee members. And with that understanding, it is our understanding that there is no one else who has intervened who is opposed to the application in any way.

The only concerns we saw we believe have been addressed through the filed amendments this morning and with the statement we made with infill with respect to the Town.

That being said, it is our position that the Board accept the application as now filed before it, and that there isn't a requirement for a more formal process now to

be set down. We understand that all of the parties here and who have intervened are essentially satisfied with the process to date and do not have outstanding questions.

And we would ask that an order be issued forthwith. Whether that can be done today or at some period after the Board has given some consideration to it.

The order that we are asking for is specifically set out in the application and particularly identifies the pipelines identified as schedule A on page 3 of the application, both high pressure and infilled pipelines at various pressures. And we would ask that an order be issued forthwith.

We believe we have been forthcoming with all of the parties up to today. And we believe the process has worked well and, you know, subject to some questions that the Board itself may have, further process doesn't seem to be warranted by the parties who are here who all seem to want to have this project go ahead. The environmental material is all before the Board.

And we would ask for that order including also, as indicated in the application, an order under section 5(1) of the Gas Distributors and Marketers Filing Regulation, which would exempt the application to the extent identified in schedule F of the application, which is the

Table of Concordance from the certain requirements of subsections 5(2) to 5(27) of the filing regulation.

That, Mr. Chair, should be a part of the order, in that as you are aware, the Table of Concordance shows some information that wasn't filed pursuant to Section 5.

You have in the past issued a ruling that that information or information of that type was not required. In most cases this is consistent with past practice.

And those items set out in the Concordance all have a reason why they aren't filed. And in many cases it is because that information isn't applicable to this application.

CHAIRMAN: Mr. MacDougall, my shorthand broke down very early in your address. So what I'm going to do is I'm going to take a 15-minute break.

Would you speak with Board counsel and Board staff concerning proceeding from this point forward and the order and what you believe should be in it?

MR. MACDOUGALL: Yes, I will.

CHAIRMAN: And we will reconvene. And unfortunately we didn't bring an order with us. So we would have to commit that to writing though we will certainly put it on the record before we leave.

So we will take a 15-minute break.

MR. MACDOUGALL: Perfect. Thank you very much,
Mr. Chairman.

(10:30 a.m. - 11:00 a.m. - Recess)

CHAIRMAN: We took a lot longer than we had anticipated.

But that is normally the case anyway.

Let me ask Flakeboard if they have anything they wish
to say to the Board before we make some rulings here?

MR. GALLANT: Not really. The only comment we would have --
no, we are as outlined in our intervention, we are in
support of this construction permit.

The only comment that we do have is -- and it is noted
in the proposal with regards to I guess where the pipeline
comes onto -- as it is proposed along Church Street --
that we do come up with a mutually agreeable route for it
on Church Street, contemplating any possible expansions
that we do commit, and that is contemplated in the
construction application here.

CHAIRMAN: Is it to your satisfaction?

MR. GALLANT: The only -- it is just to come up with a
mutually exclusive -- a mutually exclusive route. And I
think we have worked -- have done a little bit of work at
this point in time. We don't necessarily see that that
will be a problem.

CHAIRMAN: Well, I'm not going to go looking for

difficulties here. I am sure that you probably can. And it is very much in the interests of the applicant to find that mutually agreeable route. And I'm sure that the Municipality will certainly cooperate in that.

The street is being abandoned, is it not, where it presently is, if my understanding is correct?

MR. GALLANT: Yes, it is.

CHAIRMAN: That is Church Street?

MR. GALLANT: That is Church Street.

CHAIRMAN: Is it being relocated to the other side of what is presently your parking lot or something?

MR. GALLANT: Yes, it is.

CHAIRMAN: Well, we will leave that to the parties. If there is any difficulties let the Board know, that is all.

MR. GALLANT: Yes, we will.

CHAIRMAN: Okay. Good. Thanks, Mr. Gallant.

MR. MACDOUGALL: And Mr. Chair, those discussions have been ongoing. And the intention is to try and make sure we do the right thing for all parties involved.

And the discussions continue on, though some of it can't be determined right now because there may be a necessity to go a route and then move the route based on what happens with the roads. But it is based on other permits and other issues as well.

CHAIRMAN: Okay. Thank you, Mr. MacDougall. Thank you, Mr. Gallant.

Mr. Saunders, do you want to come up and take Mr. O'Connell's chair there for a minute and address the Board?

MR. SAUNDERS: Thank you very much, Mr. Chairman. I just have a very few comments. And the applicant has appropriately indicated that the St. Stephen Development Board, the organization which I represent, is very much in favour of this application.

St. Stephen Development Board is the economic development agency in St. Stephen. We work with Town Council as one of our partners as well as other groups in town including the Chamber of Commerce and the PIA and BRAG, as we call it, which is the Retail Organization and our Tourism Committee.

Specifically we have a mandate for industrial development. And we see that the natural gas proposal is very much in keeping with our interests, as we feel it is important that industry in the community have a competitive opportunity vis-a-vis industries in other jurisdictions. And the natural gas introduction into the community will do just that. So we certainly support it.

We, the St. Stephen Development Board, manage the

Business Park, the Industrial Park. And as the applicant has indicated, the natural gas will be introduced in the first instance into the Industrial Park. So we are certainly very pleased with that.

Our only area of concern has been addressed earlier. And that is the introduction to the rest of the town including the Charlotte Mall area. And so that has been covered.

So to be brief, Mr. Chairman, we support it. And we see this as a good thing for the community and for the industries in town.

CHAIRMAN: Good. Thanks, Mr. Saunders.

Does the Town Manager have any comments to make to the Board?

MS. KNIGHT: Not at this time.

CHAIRMAN: Nothing? Okay. Thank you.

Well, we took a number of moments and discussed how we would proceed. Mr. MacDougall, I anticipate there will be an order forthcoming very shortly. There are a few things that we have to tidy up.

First of all is that the Pipeline Coordinating Committee, which Mr. McQuinn chairs, he has gotten oral signoffs from a number of parties. But they haven't given them to him in writing yet. So he is going to have to

wait on that.

The second thing is that the amendments which were filed to the environmental schedule -- or sorry, exhibit B, my understanding is that they have resulted -- they result from comments that that Pipeline Coordinating Committee had made.

So he would like to take those back to his committee and make certain that they don't have any further comments as a result of that. And there are a number of those amendments that have been made.

And I would ask the other Intervenors, before they leave today, if they would pick them up, and if they have an interest in doing that, that is the Town or the Development Corporation or Flakeboard, and just check them out themselves, if they have a concern in reference to the changes that have been made by those amendments, get in touch with the Board and Mr. McQuinn before the end of this week if you would.

The order, as I say, will be signed. It will reflect the fact that we will expect EGNB to take the preferred route, as has been discussed here today.

If in fact you, for some unknown reason, as we sit here today, that you wish to change from that preferred route, that you file an indication of the changes with the

Board and copy the parties that are on the record here today. We will then give them an opportunity to comment on any of your proposed changes. We will expect the applicant to expand your infill if economies in fact allow it.

And the permit will be -- or is it license? It is permit. It is the other Act it is a license. The permit will be for including the entire development period.

So I want to thank the parties and Board counsel for coming today and participating. And as soon as those tidy-ups are done the order will be signed and will be out. And I would hope that that is out in the next week or two. We will work towards that.

Thank you very much.

MR. MACDOUGALL: Thank you very much, Mr. Chair. And there is probably some of your other Commissioners I have not met before. So I do want to say hello, gentlemen. And faces change sometimes at the Board.

(Adjourned)

Certified to be a true transcript of the proceedings of this hearing as recorded by me, to the best of my ability.

Reporter