

New Brunswick Board of Commissioners of Public Utilities

Hearing - June 23rd 2000

IN THE MATTER OF AN APPLICATION BY ENBRIDGE GAS NEW BRUNSWICK  
INC. DATED DECEMBER 31, 1999, FOR A PERMIT OR PERMITS TO  
CONSTRUCT PIPELINES IN ORDER TO PROVIDE NATURAL GAS  
DISTRIBUTION SERVICE

Henneberry Reporting Service

New Brunswick Board of Commissioners of Public Utilities

Hearing - June 23rd 2000

IN THE MATTER OF AN APPLICATION BY ENBRIDGE GAS NEW BRUNSWICK  
INC. DATED DECEMBER 31, 1999, FOR A PERMIT OR PERMITS TO  
CONSTRUCT PIPELINES IN ORDER TO PROVIDE NATURAL GAS  
DISTRIBUTION SERVICE

Chairman: David C. Nicholson, Q.C.

Commissioner: Monika Zauhar

Commissioner: John Chenier

Commissioner: Jacques A. Dumont

.....

CHAIRMAN: This will be the substance of the Board's  
decision in reference to Enbridge Gas New Brunswick's  
application for a permit to construct. And again the  
Board apologizes for not being able to give it in writing  
in both official languages. But that will be achieved  
hopefully in the not too distant future.

Permit to construct. Enbridge Gas New Brunswick  
(EGNB) proposed that a permit be issued for the extra high  
pressure (XHP) and high pressure (HP) pipelines or mains  
shown in Exhibit A-5 for construction and distribution in  
the year 2000. It also applied for infill mains within  
the municipal limits of Moncton, Riverview, Dieppe,  
Fredericton, Oromocto, Saint John and St. George, referred

hereafter as "The Municipalities", over the 20-year life of the franchise.

EGNB proposed that in the spirit of lighthanded regulation and similar to other jurisdictions, that it not be required to apply for a permit to construct the infill mains each year, but that the issuance of this permit would provide "blanket" coverage for any main it chose to install over the next 20 years within The Municipalities.

EGNB proposed that it would file the following information before and at the end of each fiscal period.

Prior to a fiscal period, customer additions, forecast, proposed in-fill areas, proposed new communities to be served, capital expenditure, forecast, including distribution mains, services and meters and other facilities required.

At the end of a fiscal period, customer additions, actual, construction update, as built drawings, capital expenditure - actual.

Finally, EGNB stated that it would submit an application for a permit to construct for any new community (other than The Municipalities) or for any extension of its XHP or HP mains. It also pointed out that it had completed Public Information Programs ("PIP's") for The Municipalities and therefore would not conduct further PIP's in The Municipalities for infill

mains.

EGNB, in a letter May 15, 2000 and marked as Exhibit A-3, made a series of commitments as a result of its consultation with provincial departments and other interested parties. In addition, it also agreed to the permit conditions put forth by Board staff, subject to changes proposed by Mr. Harte, and as well, the additional conditions put forth by the Province.

During the hearing, the Board recessed the proceeding to give EGNB and the Union of New Brunswick Indians some time to negotiate an agreement. The parties were able to reach an agreement. And as a result the UNBI supported EGNB's application. The main points of the agreement were:

EGNB will present to UNBI for comment the design of the survey on medicinal plants, plants for traditional uses and archaeology. EGNB will present the results of these surveys to UNBI for review and comment. EGNB will fully consider and address all comments received from UNBI respecting these surveys. EGNB will provide \$15,000 to fund the UNBI's involvement with this process. EGNB will enter into good faith negotiations with the UNBI to work towards an agreement for the UNBI involvement in the development of the natural gas industry. EGNB will include in its annual report to the Board the status of

the commitments in the agreement. EGNB will inform and work in conjunction with UNBI if any sites of archaeological significance to the aboriginal peoples are found during construction.

At the beginning of the hearing, EGNB spoke with representatives of various municipalities to address the issues surrounding the lack of a Standard Construction Regulation proposed by the Province as well as other issues. As a result of these discussions, The Municipalities agreed not to pursue their concerns during the hearing, with the understanding that they would reserve all their rights to appear before the Board at a future date. The hearing was reconvened on June 15, 2000 to permit EGNB and The Municipalities to address these issues. The municipalities of Saint John, Moncton, Fredericton and Dieppe reached an agreement with EGNB during off camera discussions held at the suggestion of the Board. The text of this agreement is presented in Attachment A to this decision. The Board permit will be issued consistent with this agreement.

Irving Oil Limited (Irving), supported the granting of a permit for XHP and HP mains proposed to be constructed in the year 2000. It argued that EGNB be required to apply each year for a permit for all pipe including infill mains, it wished to construct that year. By requiring

EGNB to apply for a permit each year, all affected parties would be able to review EGNB's construction plan for the following year and have input into the process.

Addressing EGNB's desire to avoid oral hearings, Irving suggested that an oral hearing might not be required in their proposed process, but that the Board should not rule out that option.

MariCo Oil and Gas Corporation, Inc. (MariCo) did not put forward a position regarding the requested permit, other than to recommend that the Board maintain sufficient regulatory oversight to ensure that EGNB's costs be prudently incurred.

The City of Fredericton did not put forward a position with respect to the granting of the permit.

The City of Saint John supported the granting of a permit for the XHP and HP mains for year 2000 only. It suggested that a permit for one year, or other "short duration", was appropriate to allow the City of Saint John the opportunity to review EGNB's proposed construction for the following year.

No party objected to the Board granting a permit to construct to EGNB for the year 2000.

Based on the evidence before it, the Board will issue a permit to construct the XHP and HP system as filed in Exhibit A-5 (Attachment B) to this decision, and to

construct infill mains in The Municipalities.

The Board finds that the permit for the XHP and HP facilities should expire on December 31, 2001. The Board further finds that the permit to construct infill mains will expire at the end of the development period.

Some parties requested the opportunity to review and comment on EGNB's construction plans for an upcoming year.

The Board directs EGNB to make annual filings in accordance with its commitment. This information will be made available by EGNB to the Board and to any interested party to review. The Board directs EGNB to work with Board staff to develop the details of this process. The Board expects this process to develop over time.

Public information programs (PIP's) and open houses. PIP's for new communities are required by the regulation.

The Board is concerned that the PIP's held in connection with this application may not have provided much relevant information to the public on infill mains proposed beyond year 2000. Therefore, the Board requires EGNB to hold an annual public open house, prior to the construction period, in each of the seven municipalities. This open house should be well publicized and give interested parties an overview of the construction plan for the municipality for the coming year. The particulars of these open houses are to be discussed with Board staff.

Permit conditions. The permit to construct will be subject to EGNB's complying with the conditions set forth in Attachment C to this decision. And that attachment will be available from the Board secretary immediately after the reading of this decision.

The Board recognizes that some of these conditions result from requests from various provincial departments with expertise in different fields. These departments shall determine if these conditions have been met. The Board requests that the Province indicate to Board staff which department is responsible for each condition.

As per EGNB's commitment, it shall ensure that the required environmental reviews are completed for all future construction projects, whether new communities or infill mains. EGNB shall initiate and complete this process in a timely fashion. This is intended to allow the necessary departments the opportunity to provide input prior to the start of construction.

The Board accepts the agreement made between EGNB and the Union of New Brunswick Indians. The commitments made by the applicant were put on the record and accepted by the Board as they were consented to by the parties. The Board is making no ruling in reference to treaty rights, aboriginal rights or aboriginal title.

And that concludes the Board's decision in reference

to the application or permit to construct. And we will  
move right along to matters which stem from the marketing  
hearing and subsequent events to that.

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

Reporter