National Energy Board | Office national de l'énergie

File OF-Surv-AMP-2015-007
12 February 2016

LETTER DECISION

Mr. Guy Jarvis
President
Enbridge Pipelines Inc.
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Calgary, AB T2P 3L8
Facsimile 403-231-3920

Mr. Robert Steedman
AMP Officer
National Energy Board
517 - 10 Avenue S.W.
Calgary, AB T2R 0A8

Mr. Robert Bourne
Senior Regulatory Counsel
Enbridge Pipelines Inc.
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Dear Messrs. Jarvis, Steedman and Bourne:

Enbridge Pipelines Inc. (Enbridge)
AMP Request for Review (AMP-007-2015)
Edmonton to Hardisty Pipeline Project, Alberta
National Energy Board Letter Decision

On 6 March 2015, the Administrative Monetary Penalty (AMP) Officer issued a Notice of Violation (NOV AMP-007-2015) to Enbridge for failure to comply with Condition 2 of Order XO-E101-006-2014 (Order) in the amount of $40,000.00.

Condition 2 of the Order states:

> Enbridge shall cause the approved Section 58 Facilities to be designed, located, constructed and operated in accordance with the specifications, standards, commitments made and other information referred to in its Application, and as otherwise agreed to during questioning or in its related submissions.

On 22 April 2015, Enbridge submitted a Request for Review of both the penalty amount and the facts of the violation.

On 11 May 2015, the Board issued a letter setting out the process through which the review would be considered. In accordance with this process, the Board is in receipt of Enbridge's submissions dated 13 July 2015 and 11 September 2015. The Board has also received the materials included in the AMP Officer's Disclosure Package dated 12 June 2015, as well as the AMP Officer's response submission dated 11 August 2015.

…/2

Enbridge submits that the AMP Officer has not established, on a balance of probabilities, that Enbridge has committed the violation in the manner described in AMP-007-2015 as required by section 148 of the *National Energy Board Act* (Act). Enbridge requests that the Board rescind the AMP in its entirety or, in the alternative the amount of the penalty should be reduced based on the following reasons:

- The AMP is inconsistent with the purpose stated in the Act as well as with statements in the Guide and the AMP is directly related to and penalizing Enbridge for the same root causes as AMP-002-2015; and

- One of the Project Modifications was previously disclosed, but was not captured in the Order, and certain Project Modifications involving scope reductions could and would have been implemented by Enbridge if the Board had denied the variance application because construction of the Project was not yet complete and the Project had not been put into service until well after the variance application had been approved by the Board.

The AMP Officer states that the evidence on the record in this proceeding has established on a balance of probabilities that Enbridge committed the violation, and that the amount of the penalty was properly determined in accordance with the *Administrative Monetary Penalties Regulations (National Energy Board)*.

The Facts of the Violation

Upon a full consideration of the evidence on the record in this proceeding, and the submissions made by Enbridge and the AMP Officer, the Board decides that the AMP Officer has not established on a balance of probabilities that Enbridge committed the violation at the time the Notice of Violation was issued, and hereby rescinds AMP-007-2015.

The Amount of the Penalty

In light of the Board's finding in relation to the facts of the violation, a consideration of the penalty calculation is not required.

[redacted]

C.P. Watson
Presiding Member

[redacted]

R.R. Wallace
Member

[redacted]

D. Hamilton
Member