



File OF-Surv-AMP-2015-004  
5 February 2016

## LETTER DECISION

Mr. Guy Jarvis  
President  
Enbridge Pipelines Inc.  
200 Fifth Avenue Place  
425 – 1<sup>st</sup> Street S.W.  
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

Ms. Laura Estep  
Dentons Canada LLP  
15<sup>th</sup> Floor, Bankers Court  
850 – 2<sup>nd</sup> Street S.W.  
Calgary, AB T2P 0R8  
Facsimile 403-268-3100

Dear Messrs. Jarvis and Steedman and Ms. Estep:

**Enbridge Pipelines Inc.  
Request for Review AMP-004-2015 (Safety)  
National Energy Board Letter Decision**

On 18 July 2013, the National Energy Board (Board) issued Order XO-E101-016-2013 (Order), which granted Enbridge Pipelines Inc. (Enbridge) approval to construct and operate a new replacement pipeline between the Cromer Terminal and the tie-in point within NW-9-926 WPM.

The Administrative Monetary Penalty (AMP) Officer issued a Notice of Violation (NOV) AMP-004-2015 to Enbridge on 23 February 2015, for failure to comply with Condition 2 of Order XO-E101-016-2013, in the amount of \$100,000. On 25 March 2015, Board received Enbridge's Request for Review of both the penalty amount and the facts of the violation.

The Board issued a letter on 10 April 2015 setting out the process through which the review would be considered. In accordance with this process, the Board is in receipt of Enbridge's submission dated 25 March 2015. The Board has also received the materials included in the AMP Officer's Disclosure Package, as well as his submission dated 23 June 2015.

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Enbridge submits that, among other things, the AMP Officer has not established on a balance of probabilities that Enbridge has committed the violation as required by section 148 of the National Energy Board Act (NEB Act). Enbridge requests that the Board rescind the violation or, alternatively, reduce the amount of the penalty for the following reasons:

- the AMP Officer's disclosure is incomplete in important respects;
- the adverse conclusions and the gravity values of the aggravating factors are not supported by the evidence contained in the disclosure package;
- the AMP Officer failed to consider relevant factors and evidence;
- breach of procedural fairness and natural justice; and
- the penalty does not comply with the intent of the NEB Act or the principle of the AMP process.

The AMP Officer states that he continues to have reasonable grounds to believe that the violation occurred and that the penalty was properly calculated. However, he agrees with Enbridge that the Safety NOV and associated disclosure package omitted relevant material which may have resulted in a breach of procedural fairness to Enbridge. The AMP Officer submits that the Board may wish to consider rescinding AMP-004-2015 for this reason.

### **The Facts of the Violation**

The Board agrees with Enbridge and the AMP Officer that the disclosure package was deficient in important aspects, resulting in a breach of procedural fairness for Enbridge. Consequently, the Board finds that the AMP Officer has not established, on a balance of probabilities, that Enbridge committed the violation and hereby rescinds AMP-004-2015.

### **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 necessary.

[REDACTED]

C.P. Watson  
Presiding Member

[REDACTED]

R. R. Wallace  
Member

[REDACTED]

D. Hamilton  
Member