



# INFORMATION REPORT

<b>TO:</b>	Mayor and Members General Issues Committee
<b>COMMITTEE DATE:</b>	April 16, 2014
<b>SUBJECT/REPORT NO:</b>	Enbridge Pipelines Inc. Line 9B Reversal and Line 9 Capacity Expansion Project - NEB Decision (PED12160(c)/LS12022(c)) (City Wide)
<b>WARD(S) AFFECTED:</b>	City Wide
<b>PREPARED BY:</b>	Guy Paparella, 905-546-2424, Ext. 5807 Lindsay Picone, 905-546-2424, Ext. 3663
<b>SUBMITTED BY:</b>	Joe-Anne Priel Acting General Manager Planning and Economic Development Department  Janice Atwood-Petkovski City Solicitor Legal Services Division City Manager's Office
<b>SIGNATURE:</b>	

## Council Direction:

On March 27, 2013, City Council approved Item 19 of the General Issues Committee Report 13-007 regarding the Enbridge Pipelines Inc. ("Enbridge") Line 9B Reversal and Line 9 Capacity Expansion Project ("Line 9B Project"), and directed staff to report back to the General Issues Committee with the status of the City's issues and how those issues have or have not been addressed at National Energy Board ("NEB") Hearing for the Line 9B Project.

## Information:

On March 6, 2014, the NEB released its Reasons for Decision approving the Line 9B Project, subject to a number of conditions set out in the accompanying Orders. The NEB has, however, denied Enbridge's request for exemption from the need to apply for Leave to Open ("LTO") as required under the *National Energy Board Act* ("NEB Act"). A copy of the NEB's decision can be accessed at the following link: <https://docs.neb-one.gc.ca/ll-eng/llisapi.dll?func=ll&objId=2428616&objAction=browse>.

Enbridge filed its application for the Line 9B Project under section 58 and Part IV of the NEB Act, seeking approval to: reverse the direction of flow on a 639 km segment of pipeline located between North Westover, Ontario and Montreal, Quebec (Line 9B portion), increase the overall capacity from 240,000 to 300,000 barrels per day of the entire Line 9 pipeline from Sarnia to Montreal, and to revise its Line 9 Rules and Regulations Tariff to allow for the transportation of heavy crude oil. Enbridge also sought an exemption from certain requirements under the *Oil Pipeline Uniform Accounting Regulations* and the NEB's filing manual.

As reported by staff to the General Issues Committee on October 17, 2012 (Report PED12160/LS12022), Enbridge has already obtained approval for the reversal of the 194 km western segment of Line 9 between Sarnia and North Westover, Ontario (Line 9 Reversal Phase I Project), in a July, 27, 2012 decision issued by the NEB.

The NEB's decision approving the Line 9B Project means that Enbridge is authorized to operate all of Line 9 in an eastward direction in order to transport crude oil from western Canada and the U.S. Bakken region to refineries in Ontario and Quebec. The NEB's approval is subject to conditions set out in the section 58 and Part IV Orders (copy attached as Appendix A).

The City of Hamilton did not intervene in the hearing, but was granted the right to participate in the NEB proceeding through submission of a Letter of Comment. The City's August 6<sup>th</sup>, 2013 Letter of Comment to the NEB highlighted the City's concerns, as well as some general municipal concerns identified in cooperation with the Municipal Liaison Group regarding the Line 9B Project (Report PED12160(b)/LS12022(b)). A summary of the issues identified in the City's Letter of Comment, and how the NEB's conditions address the issues raised, is set out in the Table attached as Appendix B. A number of the conditions imposed by the NEB must be met by Enbridge before Enbridge applies for Leave to Open ("LTO") for the Line 9B Project.

In terms of when the line reversal will occur, after complying with the necessary conditions in the NEB Order, and any additional requirements imposed by the NEB, Enbridge must apply for LTO under section 47 of the NEB Act. Section 47 of the NEB Act prohibits opening of a pipeline for the transmission of oil or any other commodity by a company until leave to do so has been obtained from the NEB. LTO may be granted by the NEB if the NEB "is satisfied that the pipeline may safely be opened for transmission."<sup>1</sup>

The NEB has various mechanisms to verify regulatory compliance, including conducting compliance meetings and inspections. Enbridge and Line 9 are and will continue to be subject to NEB oversight, compliance and legislative requirements. Furthermore, Condition 5 imposed by the NEB requires Enbridge to post a Commitments Tracking Table on its company website listing all commitments (including corresponding

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<sup>1</sup> Section 47 of the NEB Act.

timelines) made by Enbridge in its application or its related submissions, or during the proceeding in relation to the Line 9B Project. City staff will continue to monitor the NEB and Enbridge websites, and work with the Municipal Liaison Group to identify ongoing concerns. City staff are proposing to communicate and work cooperatively with Enbridge in an effort to address any outstanding City concerns, particularly those concerns that are identified as only being partially addressed, as set out in the Table attached as Appendix B.

For an application such as the Line 9B Project which falls under section 58 of the NEB Act, a recommendation does not need to be made to the Government of Canada for a subsequent level of approval, and the NEB's decision is final.

**List of Appendices:**

Appendix A – Copy of NEB Orders

Appendix B – Table Summary of City of Hamilton Specific Concerns and NEB  
Conditions Addressing City of Hamilton Concerns