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File OF-Tolls-Group1-E101-2019-02 02  
19 May 2020

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Dear Mr. Barbero, Ms. Slipp, Ms. Nichols, Ms. Fowke and Mr. Davies:

**Enbridge Pipelines Inc. (Enbridge)  
Canadian Mainline Contracting Application (Application)  
Postponement Comment Process Results and Process Steps**

On 3 April 2020, the Commission of the Canada Energy Regulator (Commission or CER) released a letter setting out a comment process seeking input from interested persons before making any further determination of process for the Application (Comment Process) ([C05599](#)). This was in response to requests from Enbridge Canadian Mainline shippers and other interested persons to postpone the hearing of the Application and related process steps due to the current COVID-19 pandemic.

Postponement

The Commission received replies from 26 shippers and other interested persons. Of these, sixteen submissions supported postponement until the COVID-19 pandemic is over. The remaining ten submissions urged the Commission to proceed with the hearing process, recognizing that process and timelines may need to reflect the current situation.

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The Commission considered the purpose of the requested postponement, alternate ways to achieve the purpose, and the impacts of granting or refusing the requests to all interested parties, including Enbridge. The Commission is mindful of the effects of the pandemic currently experienced by all involved in this Application as well as the lingering uncertainty regarding when and how pandemic limitations may resolve. At the same time, the Commission's mandate is to adjudicate as expeditiously as circumstances as well as procedural fairness and natural justice permit.

Having considered all of the foregoing, the Commission has determined that the hearing should proceed.

The Commission is mindful that there is no certainty regarding when pandemic concerns and limitations may improve or how parties may be affected by the pandemic in six months. As such, the Commission acknowledges the prejudice associated with a postponement, as asserted by Enbridge. While recognizing the unprecedented circumstances affecting all parties, the Commission finds that the proposed postponement would cause an unjustified delay to the adjudication of the Application and resolution of Canadian Mainline toll and tariff matters.

The Commission is of the view that the hearing process can be structured in a manner that balances the need to address pandemic-related challenges and the Commission's mandate to adjudicate in an appropriately expeditious manner under the circumstances. The ability of the Commission to monitor and address pandemic-related challenges by adapting the hearing procedure will mitigate many of the concerns that were identified by parties seeking a delay in the hearing. To that end:

- None of the initial hearing steps will proceed in person.
- Timelines for completion of substantive steps in the hearing process will be extended.
- The hearing process will be structured to allow participants multiple opportunities via rounds of Information Requests (IRs) to test Enbridge's evidence.
- The oral hearing steps are not anticipated until 2021. The Commission will issue details of oral hearing steps at a later date, considering the public health guidance at that time.

Accordingly, the Commission will issue a list of participants and a hearing order including the initial steps within the coming days.

#### Single or Two-Phase Hearing Process

On 16 January 2020, the Commission issued a letter soliciting comments on Enbridge's Application prior to confirming the list of issues and establishing its hearing procedure ([C04140](#)). Some interested parties requested that the Application be heard in two parts. The first phase would consider the preliminary issue of the appropriateness of converting the Canadian Mainline from exclusively uncommitted service to largely committed service. The second phase would address all other issues in the Application, including tolls and terms and conditions of service, but would only proceed if the Commission approved the conversion to committed service in the first phase. Enbridge and other interested parties filed comments opposing a two-phase hearing. No further substantive comments were received on this issue in the April 2020 Comment Process.

Based on the comments received, the Commission has decided to proceed with the assessment of the entire Application in a single hearing process. The question of whether to approve the implementation of firm service on the Canadian Mainline is likely closely intertwined with the other issues in the Application. The Commission is concerned about potential inefficiencies and overlap in or duplication of evidence and issues were it to bifurcate this Application and hear it via a two-phase proceeding. Further, it is uncertain whether, and if so, to what extent a two-phase hearing will result in a material savings of time or resources, particularly in the case where both phases of the proceeding must be conducted. As such, the Commission is not persuaded that a two-phase process is likely to achieve greater efficiency. Having considered Enbridge's Application, the substantive matters to be decided by the Commission and potential benefits and challenges of both a single- and two-phase process, the Commission is of the view that a single hearing will enable an integrated and efficient assessment of Enbridge's Application.

The Commission recognizes that Enbridge's Application is important for the future of the crude oil market in Canada and that it raises varied and complex issues. The Commission also acknowledges that not all issues will be equally important to all parties in this proceeding, and that parties may have diverse positions and concerns specific to them in the context of Applications before the Regulator. The Commission advises that all parties will have an opportunity to explore each of the issues in the proceeding and each party may choose which matters to pursue, as they see fit. Accordingly, the Commission does not view a single hearing process as unreasonably prejudicing any party's ability to participate in the proceeding. In addition, many of the measures implemented in response to requests to postpone the hearing, as detailed above, will also mitigate the concerns of interested parties in participating in a single phase hearing. As previously indicated, the Commission continues to encourage persons with similar interests to participate as a group with a common spokesperson.

#### Cost of Service Information

During the Comment Process, several parties asserted that the Commission and interested parties do not have sufficient information to evaluate whether Enbridge's proposed tolls are just and reasonable. According to these parties, data is required to determine whether the proposed tolls are at a competitive, cost-reflective level.

In response, Enbridge stated that its proposed tolls were determined via bilateral negotiations between Enbridge and individual stakeholders. Enbridge cited past cases for approval of market-based or negotiated tolls where cost information was neither provided nor required.

Based on its initial review of the Application and comments from parties during the January comment process, the Commission proposed a List of Issues. One issue included in the List is the appropriateness of, and basis for, Enbridge's proposed tolls and toll methodologies, including whether they should be, and are, reflective of Enbridge's cost of service ([C04811](#)). Although it is not a filing requirement in the circumstances under the Filing Manual, the Commission is of the view that cost of service information is necessary for the Commission to assess the just and reasonableness of the proposed tolls in the Application and to consider the above issue, at this stage of the proceedings.

The Commission confirms that it will be seeking cost of service information from Enbridge through an IR. Further, the Commission reminds parties that participants will have the opportunity to seek further information from Enbridge through the IR process.

The Commission directs Enbridge to serve a copy of this letter on all Canadian Mainline shippers and other interested persons.

Yours sincerely,

*Original signed by S. Wong for*

L. George  
Secretary of the Commission