



The City of Calgary

Application Pursuant to Section 33 of the *Pipeline Act*
for the Relocation of a Pipeline

September 13, 2011

ENERGY RESOURCES CONSERVATION BOARD

Decision 2011 ABERCB 029: The City of Calgary, Application Pursuant to Section 33 of the *Pipeline Act* for the Relocation of a Pipeline

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ENERGY RESOURCES CONSERVATION BOARD

Calgary Alberta

THE CITY OF CALGARY APPLICATION PURSUANT TO SECTION 33 OF THE *PIPELINE ACT* FOR THE RELOCATION OF A PIPELINE

2011 ABERCB 029
Application No. 1686218

DECISION

[1] Having carefully considered the record of the proceeding, including the submissions of counsel for the parties, the Energy Resources Conservation Board (ERCB/Board) hereby approves Application No. 1686218 and orders Alberta Products Pipe Line Ltd. (APPL) to relocate its pipeline as described in this decision.

INTRODUCTION

Application

[2] The City of Calgary (the City) applied to the ERCB, pursuant to Section 33 of the *Pipeline Act*, for an order requiring APPL to relocate a portion of Line No. 005 (Licence No. 8815), in the vicinity of 52 Street between 90 and 98 Avenue SE, Calgary, Alberta. The pipeline transports low-vapour-pressure products, including gasoline, diesel, and jet fuel. The City requested the relocation of the pipeline in order to accommodate the widening of 52 Street SE from two lanes to six lanes. The City advised that as a result of an impasse in negotiations between the parties, it had obtained funding approval from the federal government to proceed with an alternative road-widening plan that would not require the relocation of the APPL pipeline (the Modified Configuration).

[3] In its application, the City requested that the Board consider its application in two stages. In the first stage, the Board would consider and render a decision on whether the relocation of the pipeline is in the public interest. In the second stage, if necessary, the Board would consider the cost allocation of the relocation.

Intervention

[4] The Board received an objection to the application from APPL, the pipeline licensee. APPL stated that it was not necessary for its pipeline to be relocated as the City had an alternative road-widening plan, the Modified Configuration, that would not require APPL to relocate its pipeline. APPL disagreed with separating the issues of the application into the question of public interest for the relocation and the allocation of cost.

Amended Application

[5] On July 29, 2011, the City filed an amendment to its application advising that the City would no longer be pursuing the Modified Configuration and that the City would be proceeding with the expansion to six lanes in light of potential safety concerns identified with the Modified

Configuration. APPL did not object to the City's ability to amend its application but maintained its objection to the application.

Background

[6] The Board agreed with the two-stage process proposed by the City and indicated in the Notice of Hearing issued June 21, 2011, that it would consider the issue of whether relocating the subject portion of the APPL pipeline is in the public interest. The hearing was scheduled to begin on July 26, 2011.

[7] On July 22, 2011, the ERCB received a request to reschedule the hearing from APPL, and on July 28, 2011, the ERCB issued a Notice of Rescheduling of Hearing with a new scheduled hearing date of September 7, 2011.

Hearing

[8] The Board held a public hearing in Calgary, Alberta, which commenced and concluded on September 7, 2011, before Board Members Brad McManus, Q.C. (Presiding Member), Rob McManus, and Terry Engen. The panel members travelled to the area of the proposed pipeline relocation on July 19, 2011. Those who appeared at the hearing are listed in Appendix 1.

FINDINGS

[9] The Board considers the issue respecting the application to be whether the relocation of APPL's pipeline is in the public interest.

[10] The City's request for the pipeline relocation was made in order to further its legislative objective of developing effective transportation systems. In support of this objective, the City submitted a functional traffic study that recommended the widening and upgrading of 52 Street SE. The preference of the City was to develop a six-lane roadway to meet its transportation needs.

[11] After opening the hearing, the Board heard from both parties' counsel (Counsel) that an agreement, subject to formalization, between the parties had been reached. As a result, APPL was withdrawing its objection to the City's application and consenting to the Board issuing an order that its pipeline be relocated. Counsel also advised that they did not anticipate the need for the second phase of the process into the issue of cost allocation of the relocation as the parties had agreed to treat this issue as a commercial matter, subject if necessary to binding arbitration.

[12] Counsel stated that if the Board issued an order directing APPL to relocate its pipeline, APPL would file an application in accordance with *Directive 056: Energy Applications and Schedules* to meet agreed-upon deadlines by the City and APPL. Counsel also advised the Board that there was a proposed new route for the relocated pipeline, which would be within the right-of-way (ROW) of the new roadway or on other City of Calgary lands.

[13] The Board notes that both parties had concerns with the operation of the pipeline in its current location under the proposed six-lane roadway. The Board understands that if the pipeline were to remain in its current location, the City's proposed six-lane roadway would be

constructed over the pipeline. The Board notes that the agreement reached on the proposed new routing would have the pipeline located within the City's ROW for the new roadway or on other City of Calgary lands. The use of the City's ROW should serve to minimize impacts on adjacent landowners.

[14] In the opinion of the Board, there are safety concerns if the existing pipeline is left in its current location, which would place it beneath the new six-lane roadway. These concerns relate to both the construction and operation of the roadway and the operational reliability and integrity of the pipeline given the increased stress from the six-lane roadway. Further, in the Board's view, access to the pipeline unobstructed by the presence of the roadway, although not essential for normal operations, is desirable for maintenance purposes, as well as in the event of operating problems.

CONCLUSION

[15] After considering the record of the proceeding, including the submissions of Counsel, and noting that APPL is in support of relocating its pipeline, the Board finds that relocation of the pipeline is in the public interest, pursuant to Section 33 of the *Pipeline Act*. The Board expects APPL to consult with ERCB staff prior to filing its new pipeline application.

[16] Accordingly, the Board orders APPL to relocate the portion of its pipeline in the vicinity of 52 Street between 90 and 98 Avenue SE, Calgary, Alberta, and expects that the pipeline will be relocated in accordance with the agreement reached between the City and APPL.

Dated in Calgary, Alberta, on September 13, 2011.

ENERGY RESOURCES CONSERVATION BOARD

<original signed by>

B. T. McManus, Q.C.
Presiding Member

<original signed by>

R. C. McManus
Board Member

<original signed by>

T. C. Engen
Board Member

APPENDIX 1 HEARING PARTICIPANTS

Principals and Representatives (Abbreviations used in report)

The City of Calgary (The City)

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E. Dixon

Alberta Products Pipe Line Ltd. (APPL)

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