



File OF-Surv-AMP-2015-06 01
12 February 2016

LETTER DECISION

Mr. Guy Jarvis
President
Enbridge Pipelines Inc.
200 Fifth Avenue Place
425 – 1st 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. Elsa Kaus
Regulatory Counsel
Enbridge Pipelines Inc.
200 Fifth Avenue Place
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Calgary, AB T2P 3L8
Facsimile 403-767-3863

Dear Messrs. Jarvis and Steedman and Ms. Kaus:

**Enbridge Pipelines Inc. (Enbridge)
AMP Request for Review (AMP-006-2015)
Plains Wascana Tank 80
National Energy Board Letter Decision**

On 6 March 2015, the Administrative Monetary Penalty (AMP) Officer issued a Notice of Violation (NOV AMP-006-2015) to Enbridge for failure to comply with Condition 2 of Order XO-E101-021-2013 (Order) in the amount of \$64,000.00

Condition 2 of the Order states:

Enbridge shall cause the approved Project to be designed, located, constructed, installed, and operated in accordance with the specifications, standards, commitments made and other information referred to in its application or in its related submissions.

On 2 April 2015, Enbridge submitted a Request for Review of both the penalty amount and the facts of the violation.

On 22 April 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 3 June 2015 and 31 July 2015. The Board has also received the materials included in the AMP Officer's Disclosure Package dated 4 May 2015, as well as its submission dated 3 July 2015.

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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-006-2015 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:

- (a) contrary to what is stated in the AMP, Enbridge did not commit a violation of the AMP Regulations or other NEB requirements and therefore, should not have received the subject AMP;
- (b) the adverse conclusions drawn, and aggravating factors applied in determining the gravity values referenced in the AMP are not supported by the evidence that is provided in the Disclosure Package; and
- (c) the \$64,000 penalty is not supported by the evidence in the Disclosure Package and does not comply with the stated intent of the Act or the principles of the AMP process.

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-006-2015.

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.



C.P. Watson
Presiding Member



R.R. Wallace
Member



D. Hamilton
Member