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BY E-MAIL

September 12, 2018

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
BoardSec@oeb.ca

Dear Ms. Walli:

**Re: OEB Staff Submission
Enbridge Gas Distribution Inc.
Application for leave to construct pipelines to supply Liberty Village
OEB File No. EB-2018-0096**

Please find attached OEB staff's submission in the above referenced matter.

Yours truly,

Original signed by

Ritchie Murray
Project Advisor

Cc (by email):

Andrew Mandyam egdregulatoryproceedings@enbridge.com
Guri Pannu guri.pannu@enbridge.com

Introduction

Enbridge Gas Distribution Inc. (Enbridge) is proposing to construct three segments of natural gas pipeline totaling approximately 1.2 km within the Liberty Village neighbourhood of the City of Toronto (Project). The Project will serve to supply gas to current demand and future growth in the area. OEB staff has no concerns with the OEB granting a leave to construct order to Enbridge for construction of the Project, subject to standard conditions of approval which Enbridge reviewed and agreed upon.

Enbridge filed its original application for the Project with the OEB on April 6, 2018. On May 15, 2018, Enbridge notified the OEB that the original application for the Project did not include the build of a small segment of pipeline. The OEB placed the Project in abeyance on May 17, 2018. On June 14, 2018, Enbridge filed an amended Environmental Report (ER) along with updated exhibits. On July 16, 2018, Enbridge filed additional updated exhibits.

Enbridge is seeking the following orders.

- a) Under section 90 of the *Ontario Energy Board Act* (OEB Act), leave to construct the Project.
- b) Under section 97 of the OEB Act, approval of the proposed form of easement agreements.

Leave to Construct Application

OEB staff's submission will cover the following aspects of Enbridge's leave to construct application:

1. Need for the Project
2. Proposed Facilities
3. Franchises and Certificates
4. Economics and Feasibility
5. Routing and Environmental Matters
6. Land Matters and Consultations
7. Indigenous Consultations and Duty to Consult
8. Standard LTC Conditions of Approval

Need for the Project

OEB staff accepts the need for the Project.

Enbridge established the need for the Project based on recent requests for gas service and forecasted growth in Liberty Village. Enbridge provided evidence on the number and nature of recent gas requests and included them in a ten-year customer forecast that begins in 2018. Enbridge forecasts 32 customer additions by 2028; included in this forecast are certain non-sub-metered apartment and condominium additions that represent 2,682 individual units by 2020. Enbridge stated that its system in Liberty Village does not have the capacity to support recent load requests while maintaining uninterrupted service to existing commercial, industrial and residential customers.

Proposed Facilities

OEB staff has no concerns with the proposed facilities.

Enbridge retained GHD Consulting (GHD) to complete an Environmental Report (ER) and to propose a route for the pipeline. GHD proposed two potential routes: the Preliminary Preferred Route (PPR) and the Alternative Route (AR). Following its consultation activities, Enbridge selected the PPR as its final preferred route (FPR). This section addresses the facilities that would be located on the FPR route. OEB staff accepts the selection of the FPR as compared to the AR as discussed below under Routing and Environment Matters. The environmental assessments of the route options are also discussed in Routing and Environmental Matters below.

The FPR is composed of three segments. The first segment is approximately 900 m of NPS 8 inch intermediate pressure steel pipe that will serve to reinforce the existing natural gas distribution system. The second segment is approximately 200 m of NPS 6 inch intermediate pressure plastic pipe. The third segment is approximately 85 m of NPS 4 inch intermediate pressure plastic pipe. The latter two segments are main extensions that will provide natural gas service to a number of new condominiums and mixed use towers in Liberty Village. Enbridge has provided the design specifications of the Project to the Technical Standards and Safety Authority (TSSA). The TSSA has not expressed concern with the safety or design of the proposed facilities.¹

¹ Enbridge's response to OEB staff interrogatory #4.

In its original application and its subsequent updates, Enbridge proposes to initiate construction of the Project in September 2018 with gas distribution service being available for February 2019.

Franchises and Certificates

Enbridge provided evidence demonstrating that it has the right to supply gas to the City of Toronto.²

Economics and Feasibility

OEB staff has no concerns with the economics or feasibility of the Project.

In accordance with the EBO 188 Guidelines, Enbridge provided evidence that it used the discounted cash flow (DCF) method in its evaluation of the economic feasibility of the Project. The EBO 188 Guideline's profitability index calculation uses forecast revenues, based on the customer additions forecast for a 10 year period, with a DCF analysis of 40 years. The total capital cost of the Project is estimated to be approximately \$3.62 million and its Profitability Index is forecast to be 1.00.

OEB staff noted that the estimated Labour and Construction Cost of the Project is approximately \$2.8 million representing approximately 95% of the project sub-total (i.e., the project cost less contingency and interest during construction). OEB staff asked Enbridge to explain how the estimate for Labour and Construction Cost was determined. Enbridge responded that it received a quote for the work from one of its Extended Alliance contractors.³

OEB staff noted that there is a 25% contingency applied to the project sub-total.⁴ OEB staff asked Enbridge to explain the need for a 25% contingency. Enbridge responded that it followed its established guidelines for a project at this stage of scope development and risk profile. OEB staff submits that the contingency is high given that the project appears to be at an advanced stage of planning (e.g., the preferred routing is known, land requirements are known, the construction contractor is known).

OEB staff asked Enbridge to compare the total capital cost of this project to one or more comparable projects completed by Enbridge in the last five years.⁵ Enbridge provided

² EB-2018-0096 OEB staff interrogatory #1.

³ EB-2018-0096 OEB staff interrogatory #6, 1).

⁴ EB-2018-0096 OEB staff interrogatory #6, 2).

⁵ EB-2018-0096 OEB staff interrogatory #6, 3).

the following table (see Table One, below). OEB staff submits that the Parliament Street Replacement project is not comparable given that it is significantly smaller in length. OEB staff observes that the cost per meter of the Brimley Replacement project is approximately 25% less expensive on a unit basis than that of the Project. Enbridge's evidence does not explain why the Project is more expensive than the Brimley Replacement project.

Table One: Comparison of Project Costs

Project Name	City	Work Year	Pipe Size	Length	Actual Total Costs	Cost Per Meter
Parliament St - Replacement	Toronto	2015	12" ST HP, 2" PE IP	229	1,457,225	6,363
Brimley - Replacement	Scarborough	2017	12" ST HP, 4" ST HP, and 2" ST HP	1024	2,399,152	2,342
Liberty Village - Reinforcement	Toronto	2018	8" ST IP, 6" PE IP, 4" and PE IP	1185	3,623,263	3,057

OEB staff is of the view that there may be other justifiable factors that led to the cost estimate, such as the particular working conditions in the subject area (e.g. significant congestion of utility assets). However, Enbridge has not provided an explanation for the discrepancy in costs with the table above and OEB staff cannot rely on anything that is not on the record. Given that OEB staff has no other concerns with the project (as is noted in the rest of this submission), one option for the OEB is to grant the leave to construct and to allow for a full prudence review of the costs in AMALCO's 2019 rate case,⁶ as opposed to limiting any further prudence review to cost over runs, which has been the traditional approach for projects that receive Leave to Construct approval.

Routing and Environmental Matters

OEB staff has no concerns with the preferred routing, route selection methodology, or environmental aspects of the Project.

GHD undertook a study to select a preferred route for the proposed pipeline and to identify any potential environmental and/or socio-economic impacts that the Project could have on the existing environment. Mitigation measures designed to minimize environmental and socio-economic impacts were also developed as part of the study.

⁶ The Project's in-service date is proposed to be February 2019.

The study results have been documented in the Environmental Report (ER). OEB staff notes that the ER conforms with the OEB's Environmental Guidelines.⁷ GHD does not anticipate any long-term impacts from the construction and / or operation of the proposed pipeline if the mitigation measures recommended in the ER are used.

The amended Environmental Report was submitted to the Ontario Pipeline Coordination Committee (OPCC) on June 13, 2018. Enbridge responded to queries from the TSSA, an OPCC member. The TSSA has not expressed concern with the safety or design of the proposed facilities.⁸ No comments were received from other members of the OPCC.

The total length of the three sections of the FPR is approximately 1.2 kilometers and is entirely located within the municipal road allowance. The first section of the FPR is 900 m of Nominal Pipeline Size (NPS) 8 inch Intermediate Pressure (IP) steel natural gas main originating at King Street and Jefferson Avenue (where it connects to the existing NPS 12 IP steel natural gas main) and terminating at the existing NPS 6 IP gas main at Pirandello Street. The second segment, which is approximately 200 m of NPS 6 IP plastic gas main, starts at Strachan Avenue and Ordnance Street heading east on Ordnance Street and following Ordnance Street south for approximately 90 m. The third segment is approximately 85 m of NPS 4 IP plastic gas main which begins on Western Battery Road where it will connect to an existing gas main at the intersection of Western Battery Road and East Liberty Street.

An alternate route was identified by GHD. The main reasons for rejecting the alternative route were that it would have required two permanent easements and may have also required lands to be expropriated. These land matters would have increased impacts on landowners and also increased the costs of the Project.

In GHD's opinion, there will be no long-term impacts from the construction and / or operation of the proposed pipeline as long as Enbridge adheres to the mitigation measures recommended in the ER.

The Ministry of Tourism, Culture, and Sport (MTCS) has reviewed the Project's Stage 1 Archaeological Assessment and issued a clearance letter on April 9, 2018. The Stage 1 Archaeological Assessment determined that the study area does not require a Stage 2 Archaeological Assessment.

⁷ *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario* (7th Edition), 2016

⁸ Enbridge's response to OEB staff interrogatory #4.

Land Matters and Consultations

OEB staff has no concerns with respect to Enbridge's proposed land use or its proposed form of land use agreements.

The entire proposed route is located within municipal road allowance; Enbridge has not identified any requirements for non-municipally owned land.⁹ Although Enbridge does not expect to require the use of private land, it has filed three forms of land use agreements which Enbridge would offer affected landowners should the need arise. Two of the three, namely the Form of Agreement to Grant Easement and the Form of Easement Agreement, have been previously approved for use by the OEB.¹⁰ The proposed Form of Working Area Agreement has been updated and the new version has not been reviewed by the OEB prior to this case. OEB staff has reviewed the proposed Form of Working Area Agreement and recommends that it be approved.

Enbridge has held discussions with the municipality and public meetings with its residents. To date, Enbridge has not received any objections to the Project.

Indigenous Consultation and Duty to Consult

OEB staff submits that it is appropriate in this case that Enbridge did not engage in Indigenous consultations as the Crown's duty to consult is not triggered by the Project.

In accordance with the OEB's Environmental Guidelines, Enbridge contacted the Ministry of Energy (MOE)¹¹ with respect to the Crown's duty to consult on January 29, 2018. Enbridge received a written reply from the MOE on February 7, 2018. The MOE indicated that no duty to consult has been triggered, and it will not be necessary for the MOE to provide a letter of opinion regarding the sufficiency of consultation. In a second letter to Enbridge dated May 8, 2018, the MOE reconfirmed that no duty to consult is triggered. OEB staff has no reason to disagree with this assessment.

As a result of the MOE's determination, Enbridge did not file an Indigenous Consultation Report for the Project. As directed by the OEB, Enbridge served notice to the Métis Nations of Ontario. No intervention requests were received. Should an

⁹ Enbridge's response to OEB staff interrogatory #3.

¹⁰ Per Enbridge's response to OEB staff interrogatory #3, the proceedings in which these land use agreements were approved for use by the OEB were Enbridge's Innes Road Pipeline Replacement Project (EB-2012-0438) and its Seaton Land Development Pipeline Project (EB-2016-0054), respectively.

¹¹ Subsequent to Enbridge filing its application, the MOE became the Ministry of Energy, Northern Development and Mines.

Indigenous community identify itself as being potentially affected by the Project, Enbridge has committed to engage with that Indigenous community accordingly.

Standard LTC Conditions of Approval

Enbridge has reviewed and agreed to the OEB's standard conditions of approval for leave to construct projects.¹²

Conclusion

For the following reasons, OEB staff submits that Enbridge's applications should be approved:

- a) The need for the project has been established and is in the public interest.
- b) The TSSA has not raised concerns with the proposed facilities.
- c) Enbridge has the right to supply gas to the City of Toronto.
- d) The Project is feasible with a PI equal to 1.00. However, Enbridge should be required to file additional information on overall cost reasonableness in its next rate case.
- e) The preliminary preferred route minimizes impacts on the community. To date, Enbridge has not received any objections to the project through its consultations.
- f) There are not likely to be any long-term environmental impacts if the recommendations of the ER are followed.
- g) Enbridge has committed to negotiate easement agreements if required and has requested approval of land use agreements for that purpose. The forms of land use agreements are acceptable.
- h) Enbridge has acted appropriately with respect to Indigenous consultation and the Crown's duty to consult.
- i) Enbridge has reviewed and agreed to the OEB's standard conditions of approval for leave to construct projects.

All of which is respectfully submitted.

¹² Enbridge's response to OEB staff interrogatory #7.

**Leave to Construct Conditions of Approval
Application under Section 90 of the OEB Act
Enbridge Gas Distribution Inc.
EB-2018-0096**

1. Enbridge Gas Distribution Inc. (Enbridge) shall construct the facilities and restore the land in accordance with the OEB's Decision and Order in EB-2018-0096 and these Conditions of Approval.

2. (a) Authorization for leave to construct shall terminate 12 months after the decision is issued, unless construction has commenced prior to that date.

(b) Enbridge shall give the OEB notice in writing:

i. of the commencement of construction, at least ten days prior to the date construction commences;

ii. of the planned in-service date, at least ten days prior to the date the facilities go into service;

iii. of the date on which construction was completed, no later than 10 days following the completion of construction; and

iv. of the in-service date, no later than 10 days after the facilities go into service.

3. Enbridge shall implement all the recommendations of the Environmental Protection Plan filed in the proceeding, and all the recommendations and directives identified by the Ontario Pipeline Coordinating Committee review.

4. Enbridge shall advise the OEB of any proposed change to OEB-approved construction or restoration procedures. Except in an emergency, Enbridge shall not make any such change without prior notice to and written approval of the OEB. In the event of an emergency, the OEB shall be informed immediately after the fact.

5. Enbridge shall file, in the proceeding where the actual capital costs of the project are proposed to be included in rate base, a Post Construction Financial Report, which shall indicate the actual capital costs of the project and shall provide an explanation for any significant variances from the cost estimates filed in this proceeding.

6. Both during and after construction, Enbridge shall monitor the impacts of construction, and shall file with the OEB one paper copy and one electronic (searchable PDF) version of each of the following reports:

a) a post construction report, within three months of the in-service date, which shall:

- i. provide a certification, by a senior executive of the company, of Enbridge's adherence to Condition 1;
- ii. describe any impacts and outstanding concerns identified during construction;
- iii. describe the actions taken or planned to be taken to prevent or mitigate any identified impacts of construction;
- iv. include a log of all complaints received by Enbridge, including the date/time the complaint was received, a description of the complaint, any actions taken to address the complaint, the rationale for taking such actions; and
- v. provide a certification, by a senior executive of the company, that the company has obtained all other approvals, permits, licences, and certificates required to construct, operate and maintain the proposed project.

b) a final monitoring report, no later than fifteen months after the in-service date, or, where the deadline falls between December 1 and May 31, the following June 1, which shall:

- i. provide a certification, by a senior executive of the company, of Enbridge's adherence to Condition 3;
- ii. describe the condition of any rehabilitated land;
- iii. describe the effectiveness of any actions taken to prevent or mitigate any identified impacts of construction;
- iv. include the results of analyses and monitoring programs and any recommendations arising therefrom; and
- v. include a log of all complaints received by Enbridge, including the date/time the complaint was received, a description of the complaint, any actions taken to address the complaint, the rationale for taking such actions.