



## **DECISION AND ORDER**

**EB-2018-0188**

### **ENBRIDGE GAS INC.**

**Application for leave to construct natural gas  
transmission pipeline and associated facilities in the  
Municipality of Chatham-Kent**

**BEFORE: Susan Frank**  
Presiding Member

**Michael Janigan**  
Member

**Robert Dodds**  
Member

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**July 11, 2019**

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## 1 INTRODUCTION AND SUMMARY

Enbridge Gas Inc.<sup>1</sup> (Enbridge Gas) applied to the Ontario Energy Board (OEB) under section 90(1) of the *Ontario Energy Board Act, 1998* (OEB Act) for an order granting leave to construct approximately 13.5 kilometres of natural gas transmission pipeline in the Municipality of Chatham-Kent (Chatham-Kent Rural Project or the Proposed Project). Enbridge Gas is also seeking approval for its proposed form of Temporary Land Use Agreement, pursuant to section 97 of the OEB Act.

The Proposed Project is composed of two high-pressure pipelines in a portion of Enbridge Gas' transmission system serving Southwestern Ontario: a 500 metre NPS 12 pipeline (Bear Line Section) and a 13 kilometre NPS 8 pipeline (Base Line Section). Maps detailing the Bear Line Section and Base Line Section are attached as Schedule A to this Decision and Order. Enbridge Gas characterizes the Proposed Project as a reinforcement of the Chatham Transmission System, which operates as a primary feed to several other downstream systems. Enbridge Gas plans to start construction in the summer of 2019 for an in-service date of no later than September 1, 2019 for the Bear Line Section and an in-service date in November or December 2019 for the Base Line Section.

The OEB examined all aspects of Enbridge Gas' leave to construct application and is satisfied that the Proposed Project is in the public interest. Leave to construct the Proposed Project is granted subject to the conditions of approval attached as Schedule B to this Decision and Order (Conditions of Approval). The OEB also approves the proposed form of Temporary Land Use Agreement.

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<sup>1</sup> The application was originally filed by Union Gas Limited on June 5, 2018, under sections 90 and 97 of the *Ontario Energy Board Act, 1998*. Union Gas Limited and Enbridge Gas Distribution Inc. amalgamated effective January 1, 2019 to become Enbridge Gas Inc.

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## 2 THE PROCESS

On June 5, 2018, Enbridge Gas filed its application with the OEB for an order granting leave to construct the Proposed Project.

Enbridge Gas was granted \$8 million for the Proposed Project from the Ontario Ministry of Infrastructure's Natural Gas Grant Program (NGGP) on December 28, 2017. However, the Government of Ontario cancelled the NGGP in September 2018. On November 29, 2018, the OEB placed Enbridge Gas' application for the Proposed Project in abeyance. On March 11, 2019, the Government of Ontario announced funding for the Proposed Project through Bill 32, the *Access to Natural Gas Act, 2018*, which amended the OEB Act as of July 1, 2019. Ontario Regulation 24/19 – Expansion of Natural Gas Distribution Systems, made under the OEB Act, also came into force July 1, 2019.

In its updated application filed on March 14, 2019, Enbridge Gas requested that the OEB resume processing the application and issue a Notice of Hearing (Notice). A Notice was issued by the OEB on March 28, 2019. Both Anwaatin Inc. (Anwaatin) and the Industrial Gas Users Association (IGUA) applied for, and were granted, intervenor status.

The OEB proceeded by way of a written hearing. In accordance with Procedural Order No. 1, OEB staff, Anwaatin and IGUA filed interrogatories regarding the application on April 26, 2019. Enbridge Gas filed its responses to interrogatories on May 10, 2019. OEB staff, Anwaatin and IGUA filed written submissions with the OEB on May 24, 2019, and Enbridge Gas filed its reply submission on May 31, 2019.

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## 3 LEAVE TO CONSTRUCT

This application seeks an order granting leave to construct a natural gas pipeline under section 90 of the OEB Act. Section 96 of the OEB Act provides that the OEB shall make an order granting leave to construct if the OEB finds that “the construction, expansion or reinforcement of the proposed work is in the public interest”. When determining whether a project is in the public interest, the OEB typically examines the need for the project; the project cost and economics; the environmental impacts; impacts on landowners; and Indigenous consultation.

### 3.1 Need for the Project

Enbridge Gas stated that the Proposed Project is required to reinforce the Chatham Transmission System, which serves a number of regions, including: Chatham, Blenheim, Dresden, Wallaceburg, Kent Bridge, Ridgetown and Dutton. Enbridge Gas established the need for the Proposed Project based on a number of inquiries it received for large quantities of additional gas service in the Chatham-Kent area that could not be economically served if individual customers were to fund the cost of multiple small-scale expansions. Enbridge Gas stated that the reinforcement is required in order to meet identified customer demand and potential growth. Further, the Proposed Project would eliminate pressure-related constraints resulting from the increased demand in the area.

In its submission, OEB staff agreed with Enbridge Gas that the currently contracted and identified (expansion) demand growth demonstrates that there is a need for the Proposed Project, while IGUA submitted that it does not oppose the granting of leave to construct the Proposed Project.

### Findings

Enbridge Gas’ assessment of need included a survey of potential interest followed by signed commitment letters from six customers. The demand forecast includes the current demand of customers with signed commitment letters, future demand expectations of these customers, as well as general growth in the area. The OEB understands that the Proposed Project will allow Enbridge Gas to serve multiple customers who would otherwise not be served economically if those customers had to fund small-scale expansions individually, and that with government funding, the Proposed Project will be economically feasible. The Proposed Project has also received letters from the community supporting the project. The OEB finds that the Proposed Project is needed.

### 3.2 Proposed Facilities and Alternatives

Enbridge Gas is proposing to construct the following in the Municipality of Chatham-Kent:

- 500 metres of NPS 12 pipeline extending from the Dover Centre Transmission Station located on Bear Line in Dover Township to the Dover Centre Take-Off at the corner of Bear Line and Dover Centre Line (Bear Line Section)
- 13 kilometers of NPS 8 pipeline running from Enbridge Gas' existing Simpson Road Station (near the community of Tupperville) to an endpoint just south of the intersection of Base Line and Kent Bridge Road east of Dresden (Base Line Section)
- A new distribution station near the corner of Base Line Road and Kent Bridge Road

Enbridge Gas will also make upgrades to the take-off at the north end and the station at the south end of the Bear Line Section as part of the work completed for the Proposed Project.

Enbridge Gas indicated that geo-targeted demand side management (DSM) for existing customers will not satisfy the needs of the contract customers. Further, Enbridge Gas noted that while forecasted demands on the Base Line Section of the Proposed Project could be satisfied with an NPS 6 pipeline, upsizing that section to an NPS 8 pipeline would allow Enbridge Gas to economically serve future growth beyond the term of the initial forecast.

OEB staff noted in its submission that the other alternatives presented by Enbridge Gas appear to either be unable to handle system growth adequately, or may be underutilized, and/or result in significantly higher costs. While OEB staff expressed some concerns about whether sufficient demand will materialize to fully contract the total capacity of the Proposed Project, OEB staff was of the view that an infrastructure solution is appropriate.

### Findings

Enbridge Gas applied a comprehensive approach to determine the preferred alternative as described in the *System Design Criteria for Reinforcement on the Chatham East Pipeline* report. The alternatives considered included different diameter pipeline, different design options, obtaining supply from other suppliers and DSM options. This comprehensive assessment determined that the 500 metres of NPS 12 (Bear Line

Section) and 13 km of NPS 8 (Base Line Section) hydrocarbon (natural gas) pipeline are the best option.

OEB staff expressed concerns about whether sufficient demand will materialize to completely contract the total capacity of the Proposed Project. The OEB supports the use of the NPS 8 pipe to accommodate forecasted growth in the area. The original survey of customer need and the lack of current excess capacity support the selection of the larger pipe to provide future flexibility.

All parties who addressed the issue agreed that there is a need for additional capacity in the area. Enbridge Gas' preferred alternative – of the Proposed Project – is accepted by the OEB.

### 3.3 Project Costs and Economics

In accordance with the E.B.O. 188 Guidelines, Enbridge Gas determined the Proposed Project's Profitability Index (PI) to be 1.03. The economic assessment reflects that

- the Municipality of Chatham-Kent agreed to provide \$500,000 to support the Proposed Project, and
- O. Reg. 24/19 sets out \$8 million in funding for the Proposed Project.<sup>2</sup>

The total estimated pipeline and station cost for the Proposed Project is \$19.1 million. Enbridge Gas stated that this project cost estimate included an increase in its Construction and Labour costs as Enbridge Gas and its contractor have refined the detailed design as well as the temporary land needs and construction plans for the Proposed Project since the original application filing. To maintain the overall cost at \$19.1 million, Enbridge Gas stated that it had adjusted the contingency from 19% to 15%.

Enbridge Gas proposed that the upsizing cost associated with the NPS 8 pipeline is to be borne by Enbridge Gas' customers at large, rather than by the customers contracting in support of the Proposed Project. The incremental cost of such upsizing is approximately \$510,000.

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<sup>2</sup> See Schedule 1 to O. Reg. 24/19.

Enbridge Gas is proposing to allocate the net capital cost of the Proposed Project<sup>3</sup> to large volume customers in the identified Area of Benefit<sup>4</sup> through an Hourly Allocation Factor (HAF). The HAF was determined to be \$287/m<sup>3</sup>/hour which will be allocated to large customers that require 200 m<sup>3</sup>/hour or greater.

In its submission, OEB staff raised two concerns relating to project costs and economics:

- 1) The HAF may be overstated, both because of a change in the demand forecast for large volume consumers and because the HAF does not reflect the entire capacity enabled by the NPS 8 pipeline
- 2) Ratepayers could be at risk for the additional cost associated with construction of an NPS 8 pipeline because the demand forecast filed in evidence would be sufficiently served by an NPS 6 pipeline

OEB staff proposed that the HAF rate be accepted as proposed but that true-ups occur at five, ten and fifteen years if load grows beyond the current forecast levels.

Enbridge Gas, in its reply submission, noted that “none of the customers in the project area have asked for a true-up mechanism...No customers are paying an up-front contribution in aid of construction (“CIAC”) and the only impact would be on contract length.”

IGUA agreed with Enbridge Gas that contributions required from future attaching customers should be applied to offset costs that all Union South rate zone customers will pay for the upsizing under Enbridge Gas' proposal. Further, IGUA submitted that given the level of incremental cost, and the significant growth observed in the area of the Proposed Project, the upsizing of the pipeline seems to be a prudent proposal.

## Findings

The PI of 1.03 satisfies the OEB's economic test for this project. The OEB accepts the HAF proposed by Enbridge Gas and used in its contracting with large customers. The OEB will not require true ups as submitted by OEB staff which would be administratively costly without a material benefit to customers.

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<sup>3</sup> The net capital cost is the total capital cost of the Proposed Project, net of the municipal and Expansion of Natural Gas contributions and “capital to be recovered from future customers”, as described in Enbridge Gas' Updated Evidence, filed March 14, 2019, on page 16, paragraph 50.

<sup>4</sup> Enbridge Gas Inc. EB-2018-0188 Evidence, Schedule 4b.



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The OEB directs Enbridge Gas to continue to allocate the HAF to future attaching customers until Enbridge Gas has allocated the entire capital cost of the Proposed Project, net of the funding set out in O. Reg. 24/19 and the municipal contribution. The decision on who will pay for any remaining unfunded capital costs can be addressed at the next rebasing.

The OEB directs Enbridge Gas to provide a detailed review of the final costs of the Proposed Project as part of its next rate application. The review shall provide a variance analysis of project cost, schedule and scope compared to the original estimates, including the extent to which the project contingency was utilized.

### 3.4 Environmental Matters

Enbridge Gas retained Stantec Consulting (Stantec) to complete an environmental assessment and to propose a route for the pipeline. Enbridge Gas followed the OEB's Environmental Guidelines<sup>5</sup> to assess the potential environmental impact of the Proposed Project. The environmental assessment, including alternative routing and proposed mitigation measures, was documented in an Environmental Report (ER) completed by Stantec on behalf of Enbridge Gas. The ER was submitted to the Ontario Pipeline Coordination Committee (OPCC) in 2018. In response to OEB staff interrogatories, Enbridge Gas indicated that there were no outstanding concerns from OPCC members.

OEB staff submitted that it accepts the selection of the final preferred route compared to the other alternatives and that there should be no long-term environmental impacts from the construction and/or operation of the pipeline as long as Enbridge Gas adheres to the mitigation measures recommended in the ER and the OEB's Conditions of Approval. In its reply submission, Enbridge Gas noted that it would follow standard construction and environmental practices for the Proposed Project to ensure that construction can occur in a responsible manner and that there are no significant environmental impacts resulting from construction.

The Ministry of Tourism, Culture, and Sport (MTCS) reviewed the Proposed Project's Stage 1 Archaeological Assessment (AA); however, a Stage 2 AA is yet to be completed. Due to the outstanding Stage 2 AA, OEB staff submitted that leave to construct should be conditional on Enbridge Gas filing with the OEB a clearance letter

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<sup>5</sup> *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines in Ontario*, 7th Edition, 2016 (Environmental Guidelines)

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from MTCS for the Proposed Project. In its reply submission, Enbridge Gas accepted the additional condition requested by OEB staff. However, Enbridge Gas noted that due to weather and ground conditions, it has been unable to complete the AAs to date. Enbridge Gas expects to receive a clearance letter from MTCS in early July 2019.

### **Findings**

The OEB accepts Stantec's opinion that there will be no long-term impacts from the construction and/or operation of the pipeline assuming that Enbridge Gas follows the recommended mitigation. The OPCC has no outstanding concerns.

The OEB accepts OEB staff's submission that since a Stage 2 AA has not yet been completed, leave to construct should be conditional on Enbridge Gas filing with the OEB a clearance letter from the MTCS for the Proposed Project. Enbridge Gas has agreed to this condition.

## **3.5 Land Matters**

The pipelines will be located in the road allowances so only temporary land use to facilitate efficient construction will be required. Enbridge Gas also applied to the OEB pursuant to section 97 of the OEB Act, for an order approving the form of Temporary Land Use Agreement. In its submission, OEB staff noted that it has no concerns with respect to Enbridge Gas' proposed land use or its proposed form of land use agreements.

For the proposed stations, Enbridge Gas has obtained options for fee simple purchases.

### **Findings**

As indicated by OEB staff, the form of Temporary Land Use Agreement filed as part of the application was previously approved by the OEB for use in the Kingsville Reinforcement Project.<sup>6</sup>

The OEB approves the proposed form of Temporary Land Use Agreement.

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<sup>6</sup> EB-2018-0013

### 3.6 Indigenous Consultation

In accordance with the OEB's Environmental Guidelines, Enbridge Gas contacted the Ministry of Energy<sup>7</sup> with respect to the Crown's duty to consult on the Base Line Section and Bear Line Section of the project in 2017.

In its letter dated November 2, 2017, the Ministry of Energy advised that the Bear Line Section (referred to in that letter as the "Dover Centre Replacement Project") will not result in any appreciable adverse impact on the asserted or established rights of First Nations or Métis communities and that no duty to consult has been triggered.<sup>8</sup>

With regard to the Base Line Section, the Ministry of Energy noted in its letter of February 2, 2018 that six First Nation Communities should be consulted on the Base Line Section.<sup>9</sup> By letter dated March 4, 2019,<sup>10</sup> the Ministry of Energy advised that "...based on the information provided and through contacting the communities directly, the Ministry is of the opinion that the procedural aspects of consultation undertaken by Enbridge Gas Inc. to date for the purposes of the [OEB's] Leave to Construct for the Chatham-Kent Pipeline Project is satisfactory."

Anwaatin submitted that the communications undertaken in this case cannot reasonably be determined to be adequate and meaningful consultation. In Anwaatin's view, the evidence in this proceeding discloses that:

- Enbridge Gas is relying on the First Nations' failure to respond to emails and lack of attendance at information sessions as evidence of a lack of concern about the project;
- there was no express guidance of the fact that Enbridge Gas was undertaking formal consultation and the nature and form of the consultation;
- the First Nations had outstanding questions and concerns that they reached out to the Ministry of Energy in an effort to better understand;
- no further consultation appears to have occurred despite promises of further information and consultation; and

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<sup>7</sup> Now the Ministry of Energy, Northern Development and Mines, since the end of June 2018. The Ministry of Energy, Northern Development and Mines is referred to in this Decision as the Ministry of Energy.

<sup>8</sup> See Schedule 22, page 10 of the Enbridge Gas pre-filed evidence dated June 5, 2018.

<sup>9</sup> See Schedule 23, page 15 of the Enbridge Gas pre-filed evidence dated June 5, 2018.

<sup>10</sup> See Schedule 24 to the March 14, 2019 Enbridge Gas evidence update.

- all the affected First Nations were expressly told by Enbridge Gas that the project was on hold, and none of them was aware of the fact that the Project was proceeding and that the project application had been filed in March 2019.

Anwaatin submitted that the OEB should therefore deny, delay or defer its further consideration and/or approval of Enbridge Gas' application, and proposed a number of additional conditions for any potential approval of the Project.

Anwaatin also submitted that the proposed Municipal Franchise Agreement, once executed, constitutes a Crown decision with the Municipality acting on behalf of the Crown, and that consultation with First Nations with regard to this Crown decision has not occurred. Anwaatin asked the OEB to modify the proposed Municipal Franchise Agreement to reflect certain elements of the Chatham-Kent Official Plan that deal with Indigenous issues.

Enbridge Gas, in its reply argument, disputed several of the claims made by Anwaatin. Enbridge Gas noted that all affected First Nations were copied with the updated Project filing, and that the Ministry of Energy contacted all of the First Nations that could be potentially impacted by the Project prior to issuing its letter of sufficiency on March 4, 2019. As a result of the Ministry of Energy's communications, two communities that required additional consultation were identified to Enbridge Gas. Enbridge Gas stated that it met with Caldwell First Nation and Oneida Nation of the Thames and that representatives of both communities agreed that they had no concerns with the Project. Enbridge Gas noted that Anwaatin has not provided any evidence to challenge the consultation records provided by Enbridge Gas or any evidence of any discussions that Anwaatin had with these communities prior to making its submissions in this proceeding.

Enbridge Gas also noted that the Model Franchise Agreement is an agreement between a municipality and the gas distributor and its form has been determined and standardized by the OEB over decades of regulating municipal franchise and gas distribution relations. Enbridge Gas stated that in the Generic Proceeding on Community Expansion (Generic Proceeding)<sup>11</sup>, Anwaatin submitted a similar request that the OEB should require that both natural gas companies and municipalities be required to consult and engage with affected and potentially affected First Nations as part of any process to grant a municipal franchise to distribute natural gas. Enbridge Gas submitted that the Franchise Agreement does not extend to Aboriginal communities or other third parties,

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<sup>11</sup> EB-2016-0004

nor does it dictate the manner in which municipalities create or carry out municipal plans. Enbridge Gas also submitted that the extent to which Chatham-Kent decides to consult with First Nations in its planning processes is not a matter for the Board to determine and is out of scope for this proceeding. Enbridge Gas noted that in the Generic Proceeding, the OEB had agreed that no changes were required to the existing Model Franchise Agreement as it had been developed after negotiations between municipalities and gas distributors had taken place and has worked well for both parties over the years.

In response to Anwaatin's request for additional conditions, Enbridge Gas noted that it already has processes in place to facilitate ongoing consultation; to allow active participation in the project; to provide funding to participate; and adequate insurance, which are the matters that Anwaatin proposed would be the subject of additional conditions. Finally, Enbridge Gas also noted that two First Nation communities in close proximity to the Project are already served by Enbridge Gas.<sup>12</sup>

## Findings

The OEB finds that Enbridge Gas followed the OEB's Environmental Guidelines with respect to Indigenous consultation. As part of these requirements, Enbridge Gas contacted the Ministry of Energy with respect to the Crown's duty to consult on the Base Line and Bear Line Sections of the project.

As noted above, the Ministry of Energy advised that the Bear Line Section did not trigger the duty to consult. With regard to the Base Line Section, the Ministry of Energy advised that the procedural aspects of consultation undertaken by Enbridge Gas to March 4, 2019 (the date of the Ministry of Energy's letter of sufficiency) had been satisfactory for the purposes of the OEB's leave to construct. This was based, in part, on the information received by the Ministry's direct contact with the potentially affected Indigenous communities.

While the OEB is not bound to accept the determination of the Ministry of Energy, the evidence on the record of this proceeding confirms that conclusion. Although directly served with notice of Enbridge Gas' application, none of the six First Nation communities identified by the Ministry of Energy intervened in this proceeding. As noted above, the Ministry of Energy came to its conclusion concerning the satisfactory

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<sup>12</sup> Walpole Island First Nation and the Delaware Nation at Moraviantown

nature of Enbridge Gas' consultation efforts through direct contact with the relevant communities. Enbridge Gas produced an Indigenous Consultation report with what is described as a complete record of all consultations including a summary of meetings, concerns identified and Enbridge's responses.

Although Anwaatin has raised a general concern that consultation has been insufficient, it has not alleged that the Project presents any specific potential infringements of a particular Aboriginal or treaty right. The Project is being built on existing road allowances which suggests that the potential for harm is limited. It is not evident to the OEB what potential harms are being alleged by the advancement of this project. This lack of evidence as to potential harm presents a fundamental deficiency in the Anwaatin submission that the consultation here was inadequate, particularly when the Project will be constructed primarily on existing road allowances.

The OEB notes that the duty to consult was also not raised as an area of interest or concern in Anwaatin's request for intervenor status.<sup>13</sup> Nor was it raised in the supplementary filing<sup>14</sup> provided in response to the Registrar's request<sup>15</sup> for further information on Anwaatin's participation in this proceeding prior to Anwaatin being granted intervenor status. Anwaatin did not file any evidence to address the Enbridge Gas assertions that at least one First Nation, that Anwaatin states is within its "collective of Indigenous communities" (Caldwell First Nation), met with Enbridge Gas and ultimately did not express any concerns.

The entire evidentiary record in this case does not support Anwaatin's assertion of insufficient Indigenous consultation. The OEB also finds that it is not necessary to include any of the conditions of approval suggested by Anwaatin. The OEB accepts that Enbridge Gas already has a program in place that covers much the same issues as Anwaatin's proposed conditions. As a result, the OEB accepts the proposed conditions and expects that Enbridge Gas will continue its consultation activities with affected Indigenous communities throughout the life of the Project.

Anwaatin also submitted that the proposed Municipal Franchise Agreement should be amended to reflect the Indigenous rights and processes set out in the Official Plan of Chatham-Kent. Once again, no evidence has been provided which would suggest that

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<sup>13</sup> Letter dated April 15, 2019.

<sup>14</sup> Letter dated April 23, 2019.

<sup>15</sup> Letter dated April 16, 2019.

the execution of the Municipal Franchise Agreement (which is based on the OEB's Model Franchise Agreement) results in any potential impacts to any Aboriginal or treaty rights. Based on the record before it, the OEB sees no compelling reason to require any adjustments to the proposed Model Franchise Agreement.

The OEB therefore finds that Enbridge Gas' efforts to date, together with its ongoing plans, are sufficient for the OEB to conclude that Enbridge Gas has satisfied the duty to consult for the purposes of this approval of the leave to construct.

### **3.7 Conditions of Approval**

OEB staff proposed, in its submission, the Conditions of Approval typically attached to leave to construct decisions. In addition, OEB staff submitted that the leave to construct should be conditional on Enbridge Gas filing with the OEB a clearance letter from the MTCS for the Proposed Project. In its reply submission, Enbridge Gas agreed to the inclusion of the Conditions of Approval as well as the condition of filing a clearance letter from the MTCS to the approval.

#### **Findings**

The approved Conditions of Approval are attached as Schedule B to this Decision and Order.

The OEB finds that Enbridge Gas' compliance with the Conditions of Approval will ensure that the requirements of other approvals, permits, licences, and certificates are fully addressed.

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## 4 ORDER

### THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Enbridge Gas Inc. is granted leave, pursuant to section 90(1) of the OEB Act, to construct approximately 500 meters of 12 inch diameter pipeline and 13 kilometers of 8 inch diameter pipeline in the Municipality of Chatham-Kent, as described in its application.
2. The OEB approves the proposed form of Temporary Land Use Agreement that Enbridge Gas Inc. has offered or will offer to each owner of land affected by the approved pipeline route for the Proposed Project.
3. Leave to construct is subject to Enbridge Gas Inc. complying with the Conditions of Approval set out in Schedule B.
4. Enbridge Gas Inc. shall continue to allocate the Hourly Allocation Factor to future attaching large volume customers with a demand capacity of 200 m<sup>3</sup>/hr or greater in the Area of Benefit until Enbridge Gas has allocated the entire capital cost of the Proposed Project, net of the funding set out in O. Reg. 24/19 and the municipal contribution. The decision on who will pay for any remaining unfunded capital costs can be addressed at the next rebasing.
5. Eligible intervenors shall file with the OEB and forward to Enbridge Gas Inc. their respective cost claims in accordance with the OEB's *Practice Direction on Cost Awards* on or before July 25, 2019.
6. Enbridge Gas Inc. shall file with the OEB and forward to intervenors any objections to the claimed costs of the intervenors on or before August 8, 2019.
7. If Enbridge Gas Inc. objects to any intervenor costs, those intervenors shall file with the OEB and forward to Enbridge Gas Inc. their responses, if any, to the objections to cost claims on or before August 22, 2019.



8. Enbridge Gas Inc. shall pay the OEB's costs incidental to this proceeding upon receipt of the OEB's invoice.

**DATED** at Toronto July 11, 2019

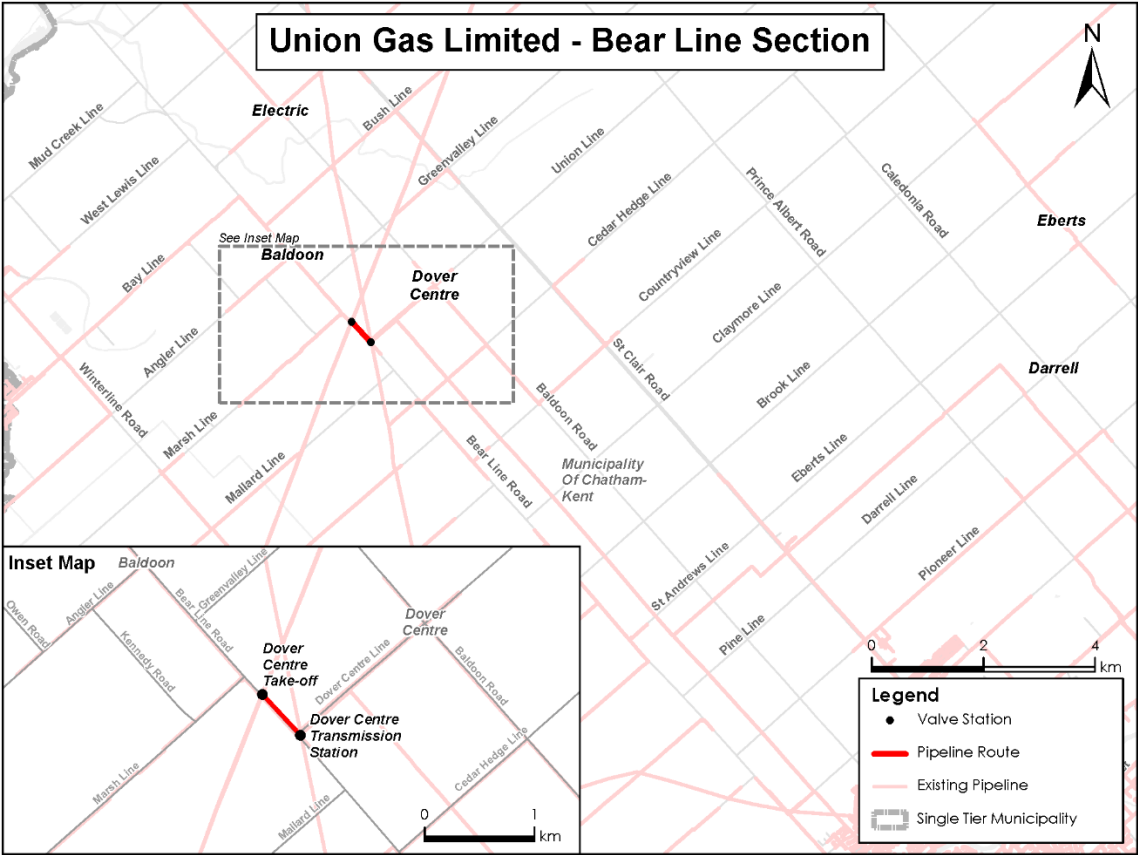
**ONTARIO ENERGY BOARD**

*Original Signed By*

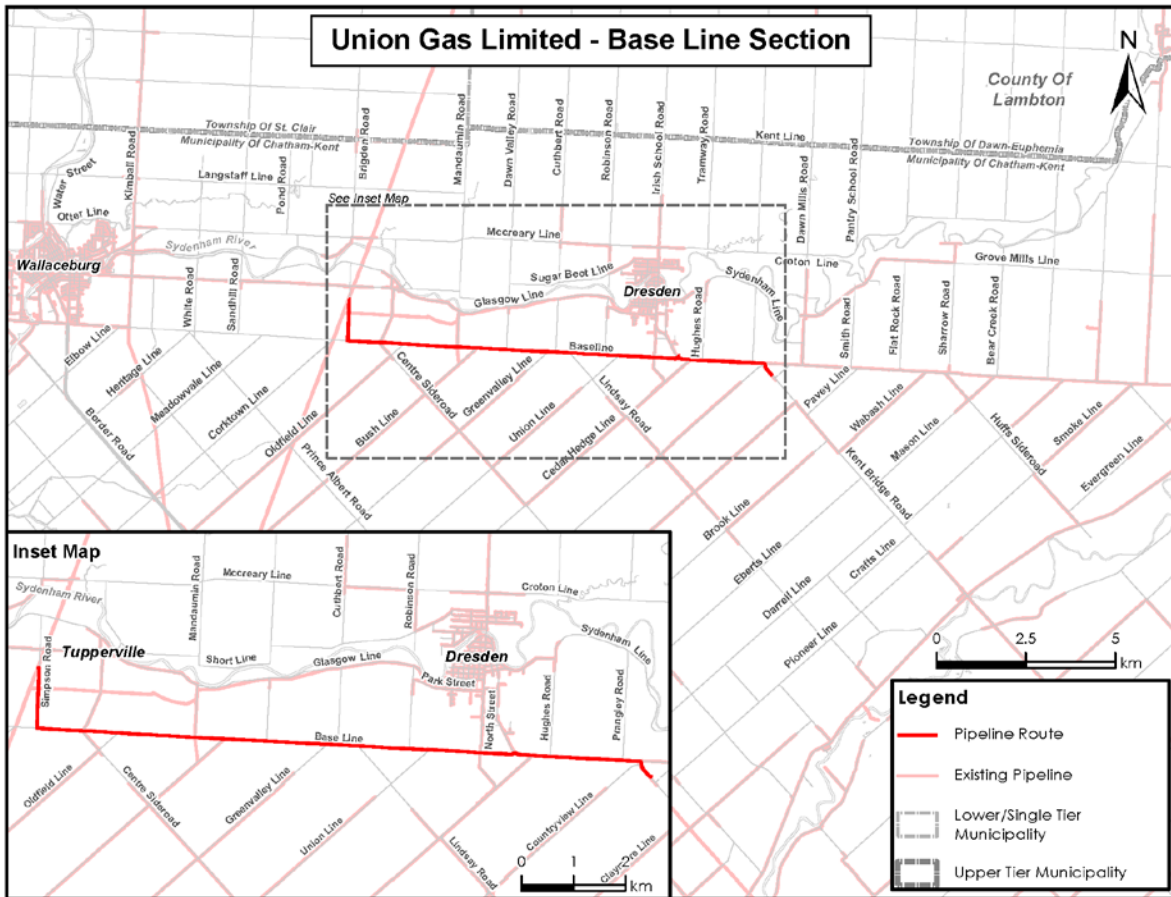
Kirsten Walli  
Board Secretary

**SCHEDULE A**  
**DECISION AND ORDER**  
**ENBRIDGE GAS INC.**  
**EB-2018-0188**  
**JULY 11, 2019**

# SCHEDULE A-1: MAP OF BEAR LINE SECTION



## SCHEDULE A-2: MAP OF BASE LINE SECTION



**SCHEDULE B**  
**DECISION AND ORDER**  
**ENBRIDGE GAS INC.**  
**EB-2018-0188**  
**JULY 11, 2019**

## **SCHEDULE B – CONDITIONS OF APPROVAL**

### **Application under Section 90 of the OEB Act**

#### **Enbridge Gas Inc.**

#### **EB-2018-0188**

1. Enbridge Gas Inc. (Enbridge Gas) shall construct the facilities and restore the land in accordance with the OEB's Decision and Order in EB-2018-0188 and these Conditions of Approval.
2. (a) Authorization for leave to construct shall terminate 18 months after the decision is issued, unless construction has commenced prior to that date.  
(b) Enbridge Gas 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 Gas shall implement all the recommendations of the Environmental Report filed in the proceeding, and all the recommendations and directives identified by the Ontario Pipeline Coordinating Committee review.
4. Authorization for leave to construct is granted conditional on Enbridge Gas filing with the OEB a clearance letter from the Ministry of Tourism, Culture and Sport for the project.
5. Enbridge Gas shall advise the OEB of any proposed change to OEB-approved construction or restoration procedures. Except in an emergency, Enbridge Gas 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.

6. Concurrent with the final monitoring report referred to in Condition 7(b), Enbridge Gas shall file a Post Construction Financial Report, which shall provide a variance analysis of project cost, schedule and scope compared to the estimates filed in this proceeding, including the extent to which the project contingency was utilized. Enbridge Gas shall also file a copy of the Post Construction Financial Report in the proceeding where the actual capital costs of the project are proposed to be included in rate base or any proceeding where Enbridge Gas proposes to start collecting revenues associated with the project, whichever is earlier.
7. Both during and after construction, Enbridge Gas 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:
    - 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 Gas, 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 Gas' 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 Gas, 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.
8. Enbridge Gas shall designate one of its employees as project manager who will be responsible for the fulfillment of these conditions, and shall provide the employee's name and contact information to the OEB and to all the appropriate landowners, and shall clearly post the project manager's contact information in a prominent place at the construction site.

The OEB's designated representative for the purpose of these Conditions of Approval shall be the OEB's Manager of Supply and Infrastructure (or the Manager of any OEB successor department that oversees leave to construct applications).