



# **ONTARIO ENERGY BOARD**

## **OEB STAFF SUBMISSION January 22, 2018**

**Enbridge Gas Distribution Inc.  
Fenelon Falls Project  
EB-2017-0147**

## Introduction

On July 26, 2017 Enbridge Gas Distribution Inc. (Enbridge) applied to the Ontario Energy Board (OEB) under s. 90(1) and s. 36 of the *Ontario Energy Board Act, 1998* (OEB Act) and under s. 8 of the *Municipal Franchises Act* (Franchises Act) for approvals that would allow Enbridge Gas to provide natural gas service to the community of Fenelon Falls in the Township of Brock and the City of Kawartha Lakes (Fenelon Falls Project).

Enbridge Gas has requested the following approvals:

- Approval to construct 37 kilometres of natural gas pipelines under s. 90(1) of the OEB Act
- An order pursuant to s. 97 of the OEB Act approving the proposed form of easement agreements
- Approval for a Certificate of Public Convenience and Necessity (Certificate) under s. 8 of the Franchises Act for the City of Kawartha Lakes to allow it to construct the natural gas facilities
- Approval under s. 36 of the OEB Act to charge a System Expansion Surcharge (SES or Surcharge) , a fixed volumetric rate, of \$0.23 per m<sup>3</sup> to:
  - all new customers in the community of Fenelon Falls that take service from the proposed facilities,
  - all new customers of similar future Community Expansion Projects.

The Fenelon Falls Project requires additional funding from the following sources to achieve full profitability: the proposed SES, Incremental Tax Equivalent (ITE) from the City of Kawartha Lakes and a provincial grant funding of approximately \$12.6 million from the Government of Ontario's Natural Gas Grant program (Grant). The Fenelon Falls Project has been through the OEB's directed competitive process and no other distributor indicated that they were interested in serving the Fenelon Falls community.

OEB staff supports Enbridge's application to provide service to the community of Fenelon Falls.

OEB staff has no major issues or concerns with the OEB granting a leave to construct order to Enbridge for construction of the pipeline, subject to standard conditions of approval which Enbridge reviewed and agreed upon.<sup>1</sup> OEB staff also has no concerns regarding Enbridge's application for approval of the \$0.23 per m<sup>3</sup> surcharge for all new customers in the community of Fenelon Falls that take service from the proposed facilities.

In a letter dated February 17, 2015, the Ontario Minister of Energy encouraged the OEB to examine opportunities to facilitate access to natural gas service to more communities. On February 18, 2015, the OEB issued a letter that invited proponents to seek approvals for gas expansion projects which may not otherwise meet the OEB's economic tests and to suggest ways in which such projects may be funded. On November 17, 2016, the OEB issued a decision on its Generic Proceeding on Community Expansion (Generic Decision)<sup>2</sup>, which, among other things, set the guiding principles for funding community expansion projects through a surcharge (rate rider) to new customers in a community to avoid cross-subsidy of these projects by the existing customers. Based on the general guiding principles established in the Generic Decision, on August 10, 2017 the OEB approved four Union Gas Limited (Union Gas) community expansion projects.<sup>3</sup>

OEB staff supports this application as it is in line with the Ontario government's commitment to bring natural gas service to more communities in Ontario, and, in OEB staff's view, follows the guiding principles of the OEB's Generic Decision and is consistent with approval of Union Gas' community expansion projects.

Regarding Enbridge's application for approval of a Certificate for the entire City of Kawartha Lakes, as further described in the submission, OEB staff's view is that the approval may be granted as applied.

OEB Staff does not support Enbridge's application to apply an SES to customers in all future community expansion projects for reasons that will be discussed later in this

---

<sup>1</sup> Enbridge's Response to the OEB Staff IR # 15

<sup>2</sup> EB-2016-0004

<sup>3</sup> EB-2015-0179

document.

This OEB staff submission will first address the leave to construct approval, then the Certificate approval, and finally, will present OEB staff's position on the application to charge the SES to new customers in all Enbridge's future community expansion projects.

## **LEAVE TO CONSTRUCT APPLICATION**

Enbridge has requested approval to construct 37 kilometres of natural gas pipelines consisting of two segments:

- The Sunderland Segment consists of 8 kilometres of 6 inch diameter pipeline starting in the community of Sunderland in the Township of Brock and connecting to Enbridge's existing pipeline at Farmstead Road in the City of Kawartha Lakes.
- The Fenelon Falls Segment consists of 29 kilometres of 6 inch and 4 inch diameter pipeline starting in the community of Oakwood and ending in the community of Fenelon Falls in the City of Kawartha Lakes.

Enbridge has also requested approval under s. 36 of the OEB Act to charge a System Expansion Surcharge of \$0.23 per m<sup>3</sup> to all new customers in the community of Fenelon Falls.

OEB staff supports Enbridge's application for leave to construct approval, subject to the proposed draft conditions of approval attached as Appendix A. Enbridge plans to start construction in April 2018 and begin providing service in October 2018.

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

- Need and alternatives
- Economics, including the \$0.23 per m<sup>3</sup> surcharge component of the total funding for the Fenelon Falls Project
- Environmental matters
- Land related matters

- Indigenous consultation

### Need and Alternatives

The need for the Fenelon Falls Project was established through market research in the area. The market research involved residential customer surveys conducted on behalf of Enbridge by Lura Consulting (Lura Survey), as well as Enbridge surveys and communication with residential and commercial customers. A summary of the Fenelon Falls expansion project according to Enbridge's evidence is as follows<sup>4</sup>:

- Potential Customers – 2,302
- Forecast Customers (Customers attached after ten years) – 1,920
- Capital Cost – \$46,878,981<sup>5</sup>
- Net Present Value of SES Revenues – \$27,947,885
- Net Present Value of ITE<sup>6</sup> revenues – \$649,068
- Natural Gas Grant Program Funding - \$12,329,795

The Sunderland segment of the Fenelon Falls Project is designed to ensure sufficient incremental capacity to serve the projected Fenelon Falls customer additions from 2019 to 2028 inclusive and will add 3000 m<sup>3</sup>/h of additional capacity to the existing distribution

---

<sup>4</sup> Evidence Exhibit E, Tab 2, Schedule 1, page 1

<sup>5</sup> As explained in the evidence at Exhibit F, Tab 1, Schedule 1 page 2, paragraph 6, Enbridge included in this amount the costs of the future reinforcement mains, future distribution mains, and future mains and services required to complete the service to Fenelon Falls for which it does not seek OEB's approval in this proceeding. Enbridge stated that it included this cost in the feasibility analysis for completeness. The revenues to recover these distribution mains capital costs will be recovered through future distribution rates.

<sup>6</sup> Enbridge's evidence is that through the ITE, the City of Kawartha Lakes will contribute to the Fenelon Falls Project by foregoing municipal taxes for a 10 year period. Enbridge's evidence indicates that the present value of these tax savings is \$649,000.

system in the area. Enbridge confirmed that all of the incremental capacity added by the Sunderland Reinforcement will be utilized for the Fenelon Falls expansion.<sup>7</sup>

The Fenelon Falls segment traverses the communities of Cameron and Cambray and Enbridge notes that the preferred route will allow Enbridge to offer gas distribution service to the communities of Cameron and Cambray along the way to Fenelon Falls. Enbridge intends to provide gas distribution service to these communities beginning in October 2018. Enbridge has included the cost of serving Cameron and Cambray in the economics of the Fenelon Falls Project, as well as in its natural gas grant application submitted to the Ministry of Energy.<sup>8</sup>

Enbridge considered alternative system supply points for the Fenelon Falls natural gas distribution service, as well as alternative routes for the Sunderland and Fenelon Falls segments. The criteria for rejecting the alternative supply location and selecting the preferred routes was minimizing impacts on residents/businesses and prime agricultural land, watercourses, roads, wetlands, significant woodlots, Conservation Authority regulated areas, Environmentally Sensitive Areas and water wells.<sup>9</sup> Enbridge's rationale was also that the preferred route would allow Enbridge to offer gas distribution service to communities of Cameron and Cambray along the route of the Fenelon Falls segment.

OEB staff accepts the need for this project and has no concerns with the route selection methodology and criteria that resulted in the proposed routing.

### Economics

Enbridge's evidence states that the initial Profitability Index (PI) of the Fenelon Falls Project, without any financial assistance, is 0.27. The PI increases to 0.75 with the SES and Incremental Tax Equivalent (ITE) from the City of Kawartha Lakes. Enbridge notes that with the Provincial Grant requested, the project reaches a PI of 1, as required by the Generic Decision.<sup>10</sup>

---

<sup>7</sup> Enbridge Response to the OEB Staff IR # 6

<sup>8</sup> Enbridge Response to the OEB Staff IR # 12

<sup>9</sup> Enbridge Response to the OEB Staff IR # 2

<sup>10</sup> Evidence Exhibit F, Tab 1, schedule 1, page 5, Table

The ITE provides a component of the funding for the Fenelon Falls Project and was agreed upon by Enbridge and the City of Kawartha Lakes. Enbridge explains that the ITE would reduce the operating cost of the Fenelon Falls Project over the first ten years of the discounted cash flow (DCF) analysis. The proposed SES would be the second component of funding that Enbridge requires for the Fenelon Falls Project to achieve a PI of 1, and grant funding of approximately \$12.6 million from the Government would be the third component of funding that is necessary to achieve a PI of 1.<sup>11</sup>

Enbridge explained in response to interrogatories that it submitted nine community expansion grant applications, including an application for Fenelon Falls, and three economic development grant applications to the Ministry of Infrastructure (MOI) in late July 2017. OEB staff expects that Enbridge will in its reply written submission clarify if the grant has been awarded for the Fenelon Falls Project.

Enbridge stated that it used DCF method described in the EBO 188 Guidelines in the evaluation of the economic feasibility of the Fenelon Falls Project. The EBO 188 Guideline's PI calculation uses forecast revenues, based on the customer additions forecast for a 10 year period, with a DCF analysis of up to 40 years. OEB staff has no concerns with the DCF method of assessment or with the time horizons and other parameters Enbridge applied for the Fenelon Falls Project.

Enbridge stated that it would annually evaluate community expansion projects to determine if a project has reached a PI of 1 prior to the Final Year<sup>12</sup> (i.e. 40 years for the Fenelon Falls Project). Enbridge confirmed that if the PI of 1 is reached prior to the Final Year, the existing attached customers and customers attached after that year would not be charged the Surcharge. The Final Year and the Initial Term (i.e. 40 years for the Fenelon Falls Project) of the SES would be, Enbridge noted, based on initial forecasts of customer attachments, customer attachment rates and natural gas demand. Enbridge confirmed that it does not

---

<sup>11</sup> Enbridge's response to OEB Staff IR # 9 and Evidence Exhibit B, Schedule 1, page 14, paragraph 36: "Community Expansion Proposal for Fenelon Falls"; and page 15, paragraphs 38 and 39: "Incremental Tax Equivalent"; and page 15 paragraphs 40 and 41: "Government Funding"

<sup>12</sup> As per Exhibit B-1-1, page 5, the Final Year of the SES will be the last year, as determined by the feasibility analysis for the project pursuant to the EBO 188 Guidelines, that payment of the SES will be required to ensure a Community Expansion Project attains a PI of 1.0.

plan to extend the duration of the Final Year and continue to charge the attached customers the SES after year 40 of the Fenelon Falls Project.<sup>13</sup>

Enbridge also confirmed that it will report on its Community Expansion Projects, including the Fenelon Falls Project, at its annual stakeholder meeting and that the report will include budgeted and actual capital costs, cumulative actual and forecasted customer attachments and project PI. Enbridge also proposes to report community expansion projects where the SES has been discontinued each year.

Enbridge's evidence states that an average residential customer consuming 2,400 m<sup>3</sup> of natural gas per year can achieve \$ 670 in annual energy cost savings through conversion to natural gas. According to Enbridge, a typical residential customer will achieve a conversion cost payback in 6 years, including payment of the \$ 0.23 per m<sup>3</sup> SES rate rider and conversion costs. Enbridge calculated that the SES would be \$0.24 m<sup>3</sup> at 10% savings and \$0.42 per m<sup>3</sup> at 30% savings.<sup>14</sup> Enbridge has determined that the Initial Term of the SES for the Fenelon Falls Project will be 40 years. The Final Year for the SES will be 2058.

Enbridge proposes that the Rate Stabilization Period (RSP) be 10 years, for the Fenelon Falls Project, which is in line with the Generic Decision. The RSP is the period in which Enbridge will bear the risk associated with variances between forecast and actual customer attachments and related revenues.<sup>15</sup>

OEB staff has no concerns with the economics of the Fenelon Falls Project, components of its funding that brings the PI to 1, or with parameters of the DCF analysis. OEB staff believes that the proposed \$0.23 per m<sup>3</sup> is reasonable and acceptable to be charged to customers in Fenelon Falls, and that the analysis used to arrive at this quantum is acceptable. OEB staff notes that the OEB's Decision on Union Gas' community expansion applications<sup>16</sup> approved this quantum for the SES that Union Gas can charge customers in

---

<sup>13</sup> Enbridge Response to the OEB Staff IR # 3 and Evidence Exhibit B, Tab 1, Schedule 1, page 7, paragraphs 19 and 20

<sup>14</sup> Evidence EX B, Tab 1, Sch 1, pages 9-12 Paragraphs 26-31

<sup>15</sup> Evidence EX B, Tab 1, Sch 1, pages 13-14 Paragraphs 32-35

<sup>16</sup> EB-2015-0179



its four new community expansion projects.

OEB staff supports Enbridge's commitment to report annually on the assessment of the economics of its Community Expansion Projects, including the Fenelon Falls Project.

### Environmental Assessment

Stantec Consulting Ltd. (Stantec) was retained to prepare the Environmental Report (ER), which was submitted to the Ontario Pipeline Coordinating Committee (OPCC) for review on May 9, 2017. OEB staff notes that the ER has been completed in accordance with the OEB Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario (OEB Environmental Guidelines).<sup>17</sup>

Enbridge provided an updated consultation log in response to OEB staff interrogatory # 14, and this response summarizes comments (including OPCC comments) received on the project. The table is current as of December 1, 2017.

OEB staff notes that there may be further discussion required between Hydro One and Enbridge regarding the location of their proposed facilities and that a Stage 2 Archeological Report may still need to be provided to the Ministry of Culture and Tourism. OEB staff notes that these requirements, which Enbridge received through the OPCC review, are addressed by condition # 3 in the proposed conditions of approval in Appendix A to this submission. Enbridge agreed to adhere to all of these conditions, including condition # 3. It appears that there are no other unresolved matters that need a follow up. OEB staff notes that Enbridge has confirmed that it will implement all of the recommendations of the Environmental Implementation Plan associated with the environmental assessment for the Fenelon Falls Project.

### Form of Easement Agreement and Land Matters

Enbridge requires permanent easement agreements and temporary land rights to complete the Fenelon Falls Project. Enbridge has negotiated terms with two landowners of properties where temporary land use rights are required. The agreements are in the process of being

---

<sup>17</sup> Evidence Exhibit D, Tab 1 Schedule 3, page 1: "Environmental Report"

executed. Enbridge indicated that it will contact the owners of the permanent easement sites in January 2018.

According to section 97 of the *Ontario Energy Board Act, 1998* (OEB Act), “In an application under section 90, 91 or 92, leave to construct shall not be granted until the applicant satisfies the Board that it has offered or will offer to each owner of land affected by the approved route or location an agreement in a form approved by the Board.” Enbridge will therefore require the OEB’s approval of the form of easement agreement that it has offered or will offer to the affected landowners.

Enbridge noted that the form of easement agreement was approved by the OEB in the proceeding for the Seaton pipeline project<sup>18</sup>. OEB Staff submits that the form of agreement should be approved as it is consistent with the form of agreement recently approved by the OEB. Both Seaton and Fenelon Falls projects are leave to construct projects and the easement agreements are required to acquire permanent land rights to construct the pipelines.

OEB staff notes that approvals and permits required by other federal, provincial and municipal agencies are within the authority of these entities and although related to the Fenelon Falls Project, do not need to be acquired prior to the OEB’s approval of the Fenelon Falls Project. Staff notes that condition 6 a) v. in the proposed conditions of approval in Appendix A to this submission covers this requirement.

#### Indigenous Consultation – Duty to Consult

The 2016 edition of the OEB Environmental Guidelines sets out new streamlined procedures and protocols for Indigenous consultation and the duty to consult on natural gas pipeline projects that are subject to the OEB’s approval. Enbridge is required to adhere to these procedures and protocols and to file the required documentation with the OEB as part of its evidence in support of its application.

Notice of the application was provided to all potentially impacted Indigenous communities. No communities intervened or otherwise sought to participate directly in the OEB’s process.

In Accordance with the OEB Guidelines, Enbridge filed an Indigenous Consultation Report

---

<sup>18</sup> EB-2016-0054

(ICR) as part of its evidence. Enbridge stated that the ICR reflects the Indigenous consultation activities up to June 30, 2017.<sup>19</sup>

In response to OEB staff interrogatory # 1, Enbridge stated that subsequent to filing the application and ICR for the Fenelon Falls Project, Enbridge met with staff from both the OEB and the Ministry of Energy (MOE) to discuss and clarify requirements for the ICR. Enbridge received a request from the MOE to update the ICR to include additional information for its review. On December 21, 2017, Enbridge filed an updated ICR with the OEB and the MOE.<sup>20</sup> The updated ICR includes Indigenous consultation activities up to and including December 1, 2017.

Enbridge stated in its updated ICR that, as of December 22, 2017, the identified Indigenous groups have not expressed any project-specific concerns. Enbridge has also committed to continue its efforts to solicit information and concerns from the Indigenous groups by inquiring via email and, depending on the response, also offering to meet with the First Nations in person.

The evidence includes an ICR review letter by the Ministry of Energy dated January 18, 2018, which states that the Ministry: "...feel that [Enbridge's] community engagement efforts for the Fenelon Falls project to date have been sufficient. The Ministry would encourage Enbridge to continue to stay in touch with communities throughout project construction, and notify the Ministry should any concerns/issues arise throughout the life of the project."<sup>21</sup>

OEB staff believes that Enbridge has followed the OEB Guidelines which set out the procedures and protocols for Indigenous consultation and the duty to consult on natural gas. Enbridge appears to have been cooperative and responsive to Indigenous communities and in OEB staff's view, Enbridge has met the Duty to Consult on this project.

#### Summary – Leave to Construct Application

OEB staff accepts the need for this project and has no outstanding concerns with respect to the choice of alternative; economics of the project, including the \$0.23 per m<sup>3</sup> surcharge; environmental matters; land-related matters and Indigenous consultation. OEB staff submits

---

<sup>19</sup> Evidence Exhibit H, Schedule 1, pages 1-11 and attachments "Indigenous Consultation Report"

<sup>20</sup> Exhibit H, Tab 1, Schedule 1, Attachment 13

<sup>21</sup> Exhibit H, Tab 1, Schedule 1, Attachment 14

that the Fenelon Falls Project application is consistent with guidance provided by the OEB in its Generic Decision. OEB staff therefore has no concerns with Enbridge's application for leave to construct approval, subject to the proposed draft conditions of approval attached as Appendix A.

## **CERTIFICATE FOR THE CITY OF KAWARTHA LAKES**

OEB staff submits that the Certificate for the entire area inside the municipal boundaries of the City of Kawartha Lakes should be granted to Enbridge. Although Enbridge does not intend to service the entire area at this time, OEB staff notes that certificates do not grant exclusive rights to provide future service to an area. It is of course not efficient for multiple utilities to build pipelines and serve the same community. That said, where there is currently no distribution service, another person can apply for a certificate to serve that area. In other words, the granting of a Certificate for the Town of Kawartha Lakes does not, in OEB staff's view, establish exclusive rights to provide service to unserved areas. This view is consistent with the OEB's past practice.

## **SURCHARGE APPROVAL FOR ALL THE FUTURE COMMUNITY EXPANSIONS**

The Fenelon Falls Project is a community expansion project with over 50 new customers that requires approval under section 90 of the OEB Act. OEB staff believes that Enbridge's application for Leave to Construct approval and for approval of the SES specific to the Fenelon Falls Project is in accordance with guidance provided by the OEB in its Generic Decision<sup>22</sup>. As indicated in the previous sections of this submission, OEB staff does not have concerns, subject to certain conditions and comments, approval of the LTC, Certificate and the SES for the Fenelon Falls Project.

OEB staff has, however, identified a number of issues with respect to Enbridge's application for OEB approval to apply the surcharge to all new customers of similar future Community Expansion Projects. OEB staff is of the view that it is premature to grant Enbridge this approval at this time, as more fully described below.

In the OEB's Generic Proceeding,<sup>23</sup> Union Gas defined a community expansion project as a project that provides first time natural gas access where a minimum of 50 potential

---

<sup>22</sup> EB-2016-0004

<sup>23</sup> EB-2016-0004

customers already exist. Enbridge Gas agreed to this definition in that proceeding. In this application, Enbridge expands that definition to add Small Main Extension projects for communities with fewer than 50 potential customers as being eligible for an SES. Enbridge notes that some of these projects will not require section 90 approval of the OEB.

In the current proceeding, Enbridge requests that the OEB-approved volumetric-based surcharge be applicable to the following categories of expansion projects:

- Community Expansion: A natural gas system expansion project which will provide first time natural gas system access where a minimum of 50 potential customers already exist, for which economic feasibility guidelines derive a Profitability Index (PI) of less than 1.0; or
- Small Main Extension: All other forms of distribution system expansion which provide first time natural gas system access to customers where fewer than 50 potential customers in homes and business already exist and where the PI for the project is less than 1.0; and
- A natural gas system expansion project meeting either of the two definitions above that requires the SES and potentially other financing mechanisms in order for project economics to attain a PI of 1.0. (Exhibit B, Tab 1, Schedule1, page 4, paragraph 9) <sup>24</sup>

OEB staff notes that a formal definition of what constitutes a community expansion project was not established by the OEB in the Generic Decision.

Enbridge has stated that many of the Small Main Extension projects are not likely to meet the criteria for LTC approval, however, OEB staff believes that OEB approval should still be required whenever a utility wishes to charge the SES to a community. OEB staff believes that a rate order will need to be issued for individual projects providing service to new communities. The rate order will need to specifically identify the communities to whom the surcharge is being charged, so approving a surcharge of \$0.23 per m3 in this application will not be sufficient regulatory approval to implement the surcharge. OEB staff would expect that the OEB will want to see information such as the need for the project, the costs

---

<sup>24</sup> The third bullet in Enbridge's proposed classification is not the third project category but a qualifier the SES or other financing mechanisms may be applied to accomplish a PI of 1 for either "Expansion" or "Small Main Expansion".

of the project, the profitability index calculation, and how long Enbridge intends to apply the surcharge. This information will allow the OEB to ensure existing customers are not subsidizing Community Expansion Projects and that new customers are not being charged a surcharge for longer than they should.

Enbridge has proposed in its evidence that:

In the event that leave of the Board is not required to construct a project, Enbridge will notify the Board of its intent to construct a Community Expansion Project in its annual rate application. Details of the project(s) will be provided including the requirement for an SES and any other financing mechanisms that will be used to support project economics. (Evidence Exhibit B, Tab 1, Schedule 1, page 4, Paragraph 10)

OEB staff agrees with Enbridge that notification to the OEB of its intent to construct a Community Expansion Project in the annual rate application is a potentially acceptable way to review the SES and any other financing mechanisms that will be used to support project economics. However, OEB staff believes that a notification outside of a rate application could also be acceptable (either for individual projects or a group of projects) if the timing of an annual rate application does not work well for Enbridge.

In addition, OEB staff believes that in advance of any filing, it is appropriate for the OEB to allow for competition by seeing if there are any other parties interested in serving a community, as it did for Fenelon Falls. OEB staff believes that this process should be initiated for all Community Expansion Projects, including Small Main Extensions.

Enbridge proposes that Small Main Extension projects with an SES, which do not require section 90 approval from the OEB, be tracked in Enbridge's Rolling Project Portfolio and Investment Portfolio and treated as other small distribution expansion projects under EBO 188. Enbridge states that this portfolio approach will ensure that the costs of all system expansion projects are supported by their projected revenues, with or without the application of the SES.<sup>25</sup> OEB staff does not support Enbridge's proposal to track Small Main Extension projects that do not require section 90 approval from the OEB in its Rolling Project Portfolio and Investment Portfolio. OEB staff does not believe this proposal is in line with the intent of the Generic Decision, which requires a competitive process for Community Expansion Projects. In addition, OEB staff does not understand how a portfolio approach would allow Enbridge to calculate whether a PI of 1.0 has been reached for each

---

<sup>25</sup> Enbridge's response to CCC interrogatory # 3 and Evidence Exhibit B, Tab 1, Schedule 1, page 3

community and whether the SES should be discontinued. For these reasons, OEB staff is of the view that it is premature to provide Enbridge with approval for Enbridge to apply the surcharge to all new customers of similar future Community Expansion Projects.

OEB staff notes that although it does not oppose Enbridge's proposal to include Small Main Extension projects into a project category eligible for an SES, subject to further OEB approval, OEB staff is of the view that contiguous growth, which occurs organically within existing distribution systems (i.e. reinforcements, replacements, relocations, and in-fill) and around its edges (i.e. short main extensions), should not be considered a Community Expansion Project eligible for the SES.

This submission of OEB staff is in accordance with the principle regarding contiguous expansions as the OEB set out in its Generic Decision:

Contiguous expansion of the existing system with development on the edge of serviced areas would continue to be managed under the E.B.O. 188 framework. Demarcation criterion will be needed to separate those projects that would appropriately be dealt with in that manner rather than applying for new rates.<sup>26</sup>

OEB staff believes that these type of projects can be covered under the existing EBO 188 Guidelines, whether section 90 leave to construct approval is required or not.

Should the OEB determine that an SES be approved for customers in all future community expansions, OEB staff's view is that any SES should be for the same customer classes as the OEB approved for Union Gas in its Community Expansion Decision. Union Gas received OEB approval to apply the SES to all general customer rates (Rates M1, M2, 01 and 10) in the four communities in its Community Expansion Decision. Contract customers were not eligible for the SES rate. OEB staff's view is that similarly, Enbridge's contract customers (i.e. stand-alone industrial customers) should not be eligible for an SES.

As well, Enbridge has proposed a 10-year Rate Stability Period for the Fenelon Falls

---

<sup>26</sup> EB-2016-0004, Decision with Reasons, OEB Generic Proceeding on Community Expansion, November 17, 2016, page 19



Community Expansion Project, and for all other future Community Expansion Projects which means that it will bear the risk of forecast vs actual attachments, as well as revenue variances, for the first 10 years following the in-service date. Staff notes that this in line with the OEB's Generic Decision and with the Union Gas Community Expansion Decision. In OEB Staff's view, should approval of an SES to customers in all future community expansion projects be granted, this approach of a 10-year Rate Stabilization Period should apply to all Community Expansion Projects, including Small Main Extension projects.

Enbridge has committed to annual reporting on all of its Community Expansion Projects at its annual stakeholder meeting and has stated that the reporting will include budgeted and actual capital costs, cumulative actual and forecasted customer attachments and project PI. Enbridge also notes that it will report Community Expansion Projects where the SES has been discontinued. OEB staff supports the annual reporting proposed by Enbridge at its annual stakeholder meeting, as long as it covers all Community Expansion Projects including small main extension projects.

To summarize, OEB staff does not recommend that approval be granted under s. 36 of the OEB Act for Enbridge to be able to charge an SES to all new customers of future Community Expansion Projects because the OEB should receive advance notification of all of Enbridge's planned Community Expansion Projects, including Small Main Extensions, and because the OEB will be required to amend rate orders to specifically identify the communities to whom the surcharge is being charged. In addition, OEB staff does not believe that an SES should be approved for all future Community Expansion Projects as Enbridge should be required to track and report on all of its Community Expansion Projects separately, including Small Main Extension projects, and should therefore not pursue a portfolio approach. Should the OEB determine that an SES should be approved for customers in all future community expansions, OEB staff's view is that contract customers should not be eligible for an SES and an SES should not be charged for contiguous growth.

All of which is respectfully submitted.



**Appendix A**  
**to**  
**OEB Staff Submission**

**Leave to Construct Conditions of Approval  
Application under Section 90 of the OEB Act  
Enbridge Gas Distribution Inc.  
EB-2017-0147**

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-2017-0147 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 Board 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.