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BY E-MAIL

May 2, 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 a pipeline to supply Scugog Island
OEB File No. EB-2017-0261**

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

Yours truly,

Original signed by

Ritchie Murray
Project Advisor

c. Regulatory Affairs, Enbridge Gas Distribution Inc.
Fred D. Cass, Aird & Berlis LLP

Introduction

Enbridge Gas Distribution Inc. (Enbridge) is proposing to construct approximately seven kilometres of Nominal Pipe Size (NPS) 4 inch extra-high pressure (XHP) steel natural gas pipeline on Scugog Island in the Town of Scugog (the Scugog Island Project). Scugog Island is situated in the Regional Municipality of Durham, in the Township of Scugog. The proposed Scugog Island Project originates near Blackstock just west of the intersection of Highway 57 and Highway 7A and ends near the intersection of Highway 7A and Island Road in Port Perry.

Enbridge is seeking the following orders.

- a) Under section 90 of the *Ontario Energy Board Act* (OEB Act), leave to construct approximately seven km of NPS 4 extra-high pressure pipeline to serve the community of Scugog Island in the Township of Scugog in the Regional Municipality of Durham.
- b) Under section 97 of the OEB Act, approval of the proposed form of easement agreements.
- c) Under section 36 of the OEB Act, approval to charge a System Expansion Surcharge of \$0.23 per m³ for the term of 40 years to all new customers taking distribution service from the facilities in the community of Scugog Island.

The Scugog Island Project requires funding from the following sources to achieve a profitability index of 1.04¹:

- a) The proposed SES,
- b) Incremental Tax Equivalent (ITE) from the City of Kawartha Lakes,
- c) A provincial grant funding of approximately \$12.6 million from the Government of Ontario's Natural Gas Grant program (Grant).

The Scugog Island Project has been through the OEB's process for seeking expressions of interest to serve the area, and no other distributor submitted a qualifying expression of interest in serving the Scugog Island community.

OEB staff has no issues or concerns with the OEB granting a leave to construct order to Enbridge for construction of the Scugog Island Project, subject to standard conditions of approval which Enbridge reviewed and agreed upon.²

¹ EB-2017-0261, Application and Evidence, Exhibit F, Tab 1, Schedule 1, page 5

² Enbridge's response to OEB staff interrogatory #11

OEB staff has no issues or concerns with Enbridge's proposed form of easement agreement.

OEB staff notes that, in its decision and order for Enbridge's Fenelon Falls community expansion project, which was issued after this application was filed, the OEB approved a framework for, and granted Enbridge generic approval to charge, a volumetric based SES rate rider for certain community expansion and small main extension projects³ (as defined and discussed further in the System Expansion Surcharge (SES) section below). The Scugog Island Project qualifies for SES treatment, therefore OEB staff has no concerns regarding Enbridge's application for approval of the \$0.23 per m³ surcharge for all new customers in the community of Scugog Island that take service from the proposed facilities; in fact, OEB Staff believes that specific approval of the SES is no longer required

Leave to Construct Application

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

1. Need and Alternatives
2. Proposed Facilities and Schedule
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 and Alternatives

The need for the Scugog Island 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.

Enbridge estimates (even with a system expansion surcharge) the total size of the residential and commercial conversion markets to be 968 and 19 customers,

³ EB-2017-0147, Decision and Order, page 17, item 7

respectively, for a total of 987 conversion customers. Enbridge estimates the total size of the residential, commercial and apartment new construction customer addition markets to be 54, 6 and 10, respectively, for a total of 70 new construction customers. Overall, Enbridge is forecasting 1,057 potential customers over ten years. Based on the market research, Enbridge has assumed a 75% capture rate for conversion customers and a 100% capture rate for new construction customers for a total of 810 customers by the end of the tenth year.

The Scugog Island Project will enable Enbridge to provide first time natural gas distribution service to the community of Scugog Island. This project is consistent with the Ontario Government's goal to expand natural gas infrastructure to more communities in rural and northern Ontario and the OEB's decision with reasons in the generic community expansion proceeding⁴.

As further discussed below, Dillon Consulting (Dillon) was retained by Enbridge to complete an Environmental Report (ER) and to propose a route for the pipeline. Dillon proposed two potential routes: the Preliminary Preferred Route (PPR) and the Alternative Route (AR). The PPR and AR are further discussed under Routing and Environmental Matters below.

OEB staff accepts the need for this project and has no issues or concerns with the route selected.

Proposed Facilities and Schedule

The PPR would be approximately seven kilometres long and be constructed of Nominal Pipe Size (NPS) 4 inch extra-high pressure (XHP) steel natural gas pipeline – the design specifications of which were provided in Enbridge's application⁵. The pipeline is designed to ensure sufficient capacity to serve the estimated total of 810 conversion and new construction customers over a ten year timeframe.

Enbridge has provided the design specifications of the pipeline to the Technical Standards and Safety Authority (TSSA). To date, the TSSA has not expressed any concerns regarding the proposed facilities.

Enbridge proposes to initiate construction of the Scugog Island Project in the spring of 2019 with the intention of gas distribution service being made available for the

⁴ EB-2016-0004

⁵ EB-2017-0261, Application and Evidence, Exhibit E, Tab 1, Schedule 2

2019/2020 heating season. In order to meet these timelines Enbridge is requesting that the OEB issue a Decision for this application no later than October 2018.

Franchises and Certificates

Enbridge filed evidence demonstrating that it holds a municipal franchise agreement (MFA) and certificate of public convenience and necessity (certificate) for the area in the Township of Scugog (which township includes Scugog Island).⁶

OEB staff has no issues or concerns with the existence or applicability of Enbridge's MFA or certificate.

Economics and Feasibility

The total capital cost of the Scugog Island project is estimated to be \$16.6 million (see Table 1 below).⁷ This includes a 10% contingency.

Enbridge stated that it used the DCF method described in the EBO 188 Guidelines in the evaluation of the economic feasibility of the Scugog Island 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 40 years.

In accordance with the OEB's decision with reasons in the generic community expansion proceeding⁸ and its decision and order in the Fenelon Falls community expansion proceeding⁹, a system expansion surcharge (SES) in the form of a rate rider in the amount of \$0.23 per m³ may be applied to all new customers of certain expansion projects for a term of up to 40 years.

Enbridge applied for and was granted funds for the Scugog Island project from the Ontario Ministry of Infrastructure's Natural Gas Grant Program. The value of the grant is approximately \$6.3 million. Assuming this level of government funding, the SES revenues, and a 10-year tax exemption (ITE) from the municipality and the

⁶ Enbridge's response to OEB staff interrogatory #1

⁷ As explained in the Application and Evidence at EB-2017-0261, Exhibit F, Tab 1, Schedule 1, page 2, Enbridge included approximately \$13.1 million as the costs of the future reinforcement mains, future distribution mains, and future mains and services required to complete the service to Scugog Island 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.

⁸ EB-2016-0004

⁹ EB-2017-0147

Mississaugas of Scugog Island First Nation¹⁰, the Project is forecast to achieve a PI of 1.04.

Table 1: Scugog Island Project Summary^{11,12}

Potential Customers	1,057
Forecast Customers	810
Transmission Mains	\$ 3,448,946
Distribution Mains	\$ 9,026,660
Future Mains	\$ 64,501
Services	\$ 4,010,730
Total Capital Costs	\$ 16,550,837
Net Present Value of SES Revenues	\$ 8,447,504
Net Present Value of ITE Revenues ¹³	\$ 76,048
Natural Gas Grant Funding	\$ 6,324,318
Annual Distribution Revenues at Year 10	\$ 402,329

OEB staff has no issues or concerns with the economic evaluation or feasibility of the proposed Scugog Island Project.

Routing and Environmental Matters

Dillon Consulting (Dillon) 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. The study results have been documented in the Environmental Report (ER). OEB staff notes that the ER conforms with the *OEB's Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario* (7th Edition, 2016) (Environmental Guidelines). Dillon does not anticipate any long-term

¹⁰ As explained in the Application and Evidence at EB-2017-0261, Exhibit B, Tab 1, Schedule 1, pages 3 and 4, through the ITE, the Township of Scugog and the Mississaugas of Scugog Island First Nation will contribute to the Scugog Island Project by foregoing municipal taxes and levies for a 10 year period. Enbridge's evidence indicates that the present value of these tax savings is \$76,048.

¹¹ EB-2017-0261, Application and Evidence, Exhibit B, Tab 1, Schedule 1, Table 1

¹² Ibid., Exhibit F, Tab 1, Schedule 1

¹³ Enbridge's response to OEB staff interrogatory #2 states that the ITE serves to reduce the operating costs over the first ten years of the DCF analysis used to determine the PI.

impacts from the construction and / or operation of the proposed pipeline based on the mitigation measures recommended in the ER.

The ER was submitted to the Ontario Pipeline Coordinating Committee (OPCC) for review on October 3, 2017. Subsequently, Enbridge responded to requests and queries from various OPCC members including the TSSA, Ministry of Natural Resources and Forestry (MNR), Ministry of Transportation (MTO), and the Ministry of Energy (MOE).¹⁴ With the exception of the MOE (as discussed in the following section titled Indigenous Consultation and Duty to Consult), as of April 11, 2018, Enbridge has not received any correspondence from OPCC members expressing concern with the Scugog Island Project.

The PPR commences just west of the intersection of Highway 57 and Highway 7A in Blackstock, travels west along Highway 7A, and terminates at the intersection of Highway 7A and Island Road in Port Perry (Township of Scugog). The PPR would be located within the municipal road allowance. The length of the PPR is approximately 7 kilometers.

The AR requires two sections of pipeline: a reinforcement pipeline and a new pipeline. The reinforcement section begins at the intersection of Lakeridge Road and Scugog Line 14, travels east along Scugog Line 14 and terminates at the intersection of Marsh Hill Road and Scugog Line 14 in Sunderland, Ontario (Township of Brock). The new section of pipeline begins at the intersection of Highway 7 & 12 and Scugog Line 6 and travels east along Scugog Line 6, which turns into Highway 7A, and terminates at the intersection of Highway 7A and Island Road in Port Perry (Township of Scugog). The AR is located within the municipal road allowance. The length of the AR is approximately 9 kilometers

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. The PPR is shorter than the AR, less costly, has fewer road crossings, crosses fewer waterbodies / wetlands / Areas of Natural and Scientific Interest (ANSI), and also crosses fewer residences and commercial / industrial properties.

OEB staff accepts that there should be no long-term impacts from the construction and / or operation of the proposed pipeline so long as Enbridge adheres to the mitigation

¹⁴ Enbridge's response to OEB staff interrogatory #6

measures recommended in the ER. OEB staff have no issues or concerns with the route selection methodology.

Land Matters

The entire proposed preferred route is located within public road allowance. Enbridge will be required to obtain road occupancy permits from the Ministry of Transportation.

Temporary working areas may be required along the route where the road allowance is too narrow or confined to facilitate construction. Enbridge has committed that agreements for temporary working rights would be negotiated where required. The form of easement agreement Enbridge would offer affected landowners is provided in evidence and further discussed below.

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

Form of Easement Agreement

To date, Enbridge has not identified any requirements for temporary land use¹⁵. With the exception of two minor typographical errors that have been corrected by Enbridge¹⁶, the form of Working Area Agreement that Enbridge would offer affected landowners was previously approved by the OEB in the proceeding for the Innes Road Project.¹⁷

OEB staff has no issue with the approval of Enbridge's proposed form of easement agreement.

Indigenous Consultation and Duty to Consult

In accordance with the OEB's Environmental Guidelines, Enbridge contacted the MOE with respect to the Crown's duty to consult on May 24, 2017, and received correspondence on June 28, 2017, indicating that the procedural aspects of the duty to consult are delegated to Enbridge. Enbridge provided an Indigenous Consultation Report (ICR) to the MOE on January 26, 2018.

Enbridge appears to have addressed the questions and concerns expressed by four out of five Indigenous communities potentially impacted by the Scugog Island Project; the

¹⁵ Enbridge's response to OEB staff interrogatory #8 a)

¹⁶ Enbridge's response to OEB staff interrogatory #8 b)

¹⁷ EB-2012-0438

fifth community is Curve Lake First Nation. All five communities received Notice of this proceeding. Enbridge has been working to consult with Curve Lake First Nation since June 2017. On April 11, 2018, Enbridge was informed by the MOE that the Ministry would not issue a letter commenting on the sufficiency of Enbridge's Indigenous consultations until Enbridge has held a meeting with Curve Lake First Nation.¹⁸ Enbridge's efforts to engage Curve Lake First Nation are ongoing.

OEB staff is of the view that, if the OEB grants Enbridge's request for leave to construct the Scugog Island Project, that such approval be contingent on Enbridge receiving confirmation that its Indigenous consultations have met the requirements of the Ministry of Energy. If available, Enbridge could provide this confirmation in its reply submission (in which case a conditional approval would not be required). To the extent any concerns are identified, the matter may have to be reviewed further by the OEB either as part of this proceeding, or in a follow-up proceeding depending on the timing of the new information.

Standard LTC Conditions of Approval

OEB staff notes that standard condition 5 requires that Enbridge submit a post construction financial report at its next rebasing. OEB staff suggests that the post construction financial report be filed at the same time as the final environmental monitoring report – i.e., no later than fifteen months after in-service date, or, where the deadline falls between December 1 and May 31, the following June 1. OEB staff submit that filing a post construction financial report in 2028 - which is when Enbridge is proposing to submit its next rate rebasing application¹⁹ - does not appear to meet the intent of the condition.

OEB staff proposes the following revision to condition 5:

5. Concurrent with the final monitoring report referred to in Condition 6. b), Union 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.

¹⁸ Enbridge's response to OEB staff interrogatories #6 and #10

¹⁹ In November, 2017, Enbridge Gas Distribution Inc. and Union filed a Merger, Acquisition, Amalgamation and Divestures (MAADs) application to amalgamate (EB-2017-0306). The applicants propose to defer the rebasing of the amalgamated entity for 10 years.

System Expansion Surcharge (SES)

In its decision and order for Enbridge's Fenelon Falls community expansion project²⁰, the OEB approved a framework²¹ for, and granted Enbridge generic approval to charge, a volumetric based SES rate rider for certain community expansion and small main extension projects as follows:²²

- 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.

As previously noted, in its decision and order for Enbridge's Fenelon Falls community expansion project, the OEB approved a framework for, and granted Enbridge generic approval to charge, a volumetric based SES rate rider for certain community expansion and small main extension projects as defined above. OEB staff notes that the Scugog Island Project satisfies the above definition of a "community expansion" project. OEB staff has no issues or concerns with the approval of Enbridge's request for approval for a SES for use in the Scugog Island Project provided it adheres to the framework prescribed in the Fenelon Falls proceeding. In fact, as noted above, OEB staff believes that specific approval of the SES is no longer required given that generic approval of the SES was granted in the Fenelon Falls community expansion project.

Summary

Subject to Enbridge providing evidence of a favourable reply from the Ministry of Energy on duty to consult, for the following reasons, OEB staff submits that Enbridge's requests in this matter should be approved:

- a) The need for the project has been established and is in the public interest.

²⁰ EB-2017-0147, Decision and Order, page 17, item 7

²¹ Including reporting requirements

²² EB-2017-0147, Application and Evidence, Exhibit B, Tab 1, Schedule 1, page 4

- b) The proposed facilities and schedule seem appropriate.
- c) Enbridge holds the necessary MFA and certificate.
- d) The project is feasible with a PI equal to 1.04, with consideration of the approved government funding, the SES revenues, and a 10-year tax exemption (Incremental Tax Exemption, ITE) from the municipality and the Mississaugas of Scugog Island First Nation.
- e) The preliminary preferred route appears to be the most appropriate route.
- f) There are not likely to be any long-term environmental impacts if the recommendations of the Environmental Report are followed.
- g) Enbridge has committed to negotiate easement agreements if required and has requested approval of an easement agreement for that purpose.
- h) To date, Enbridge has not received any objections to the project through its consultations.
- i) The proposed SES is in accordance with the framework established in the generic community expansion proceeding²³ and the Fenelon Falls proceeding²⁴.

All of which is respectfully submitted.

²³ EB-2016-0004

²⁴ EB-2017-0147

**Leave to Construct Conditions of Approval
Application under Section 90 of the OEB Act
Enbridge Gas Distribution Inc.
EB-2017-0261**

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-2017-0261 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.