



# **Ontario Energy Board Commission de l'énergie de l'Ontario**

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## **DECISION AND ORDER**

**EB-2018-0306**

### **ENBRIDGE GAS INC.**

**Stratford Reinforcement Project**

**BEFORE:**        **Susan Frank**  
                      Presiding Member

**Robert Dodds**  
                      Vice Chair

**Cathy Spoel**  
                      Member

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**March 28, 2019**

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## 1 INTRODUCTION

Union Gas Limited (now Enbridge Gas Inc., referred to below as Enbridge Gas) applied to the Ontario Energy Board (OEB) under sections 90 and 97 of the *Ontario Energy Board Act, 1998* (OEB Act) for an order granting leave to construct approximately 10.8 kilometres of natural gas transmission pipeline in the Counties of Oxford and Perth (Stratford Reinforcement Project or Project). Enbridge Gas proposed an in-service date of November 1, 2019 with construction beginning in May 2019.

A map of the proposed Project is attached as Schedule A to this Decision and Order.

The OEB approved the Industrial Gas Users Association (IGUA), the School Energy Coalition (SEC) and Mr. Steven Veldman as intervenors.

The OEB examined all aspects of this leave to construct application and is satisfied that it is in the public interest. Leave to construct the 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.

## 2 PROCESS

Enbridge Gas filed its original application on November 2, 2018 and an amendment on November 13, 2018. A Notice of Hearing (Notice) was issued on December 4, 2018. Enbridge Gas served and published the Notice as directed.

The OEB proceeded by way of a written hearing. Intervenors and OEB staff filed interrogatories regarding Enbridge Gas' application on January 16, 2019, and Enbridge Gas filed its responses on January 30, 2019. Intervenors and OEB staff filed written submissions on February 13, 2019. Enbridge Gas filed its reply submission on February 27, 2019.

### **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, PROPOSED FACILITIES AND ALTERNATIVES**

Enbridge Gas stated that the Project is required to increase the capacity of the Forest-Hensall-Goderich Transmission System (FHG System), which serves the Northern portions of the Counties of Middlesex and Lambton, and the Counties of Perth and Huron. Enbridge Gas stated that the Project was needed for the winter of 2019 to accommodate forecasted growth in general service and contract customers. It would also eliminate pressure-related constraints in the area.

Enbridge Gas advised that it considered alternative construction projects to address these needs. The recommended Project will have 10.8 kilometres of new NPS 12-inch pipeline extending from the Beachville Transmission Station to a new proposed valve site to tie into the existing NPS 8-inch Stratford Line pipeline on the south side of the Perth-Oxford Road. A launcher site will be built east of 41<sup>st</sup> Line Road opposite of the existing Union Gas Beachville Transmission Line and a receiver site built on the west side of 41<sup>st</sup> Line Road along the new proposed NPS 12-inch pipeline.

Enbridge Gas also considered alternatives involving different diameter pipelines and reinforcement lengths, as well as other alternatives that were rejected as unviable due to inability to support the identified growth or due to unrealistic project scopes. Limited consideration was given to geo-targeted demand side management (DSM) for the area.

OEB staff submitted that Enbridge Gas did not undertake any integrated resource planning (IRP) to allow for DSM to be a viable alternative, and that Enbridge Gas should consider a longer planning cycle to be able to take into account the lead time necessary for DSM projects to be a viable alternative to infrastructure projects.

SEC submitted that Enbridge Gas has put the OEB in a position where it has no choice but to approve the Project, as based on the evidence provided by Enbridge Gas, since failure to approve it could result in lack of gas supply in areas of southwestern Ontario.

SEC referenced the OEB's report regarding the current demand side management framework<sup>1</sup>, in which the OEB stated that it expected DSM to be considered far enough in advance for DSM to reasonably be considered as a possible alternative to future infrastructure investments.

Enbridge Gas stated in its interrogatory response<sup>2</sup>, and again in its reply submission, that its consultant ICF Canada had looked at geo-targeted DSM in its 2018 report and determined that the proposed growth on the FHG System was greater than what could be met with DSM programs. Enbridge Gas also stated that it is reviewing potential reinforcement projects with in-service dates sufficiently in the future to allow for the consideration of geo-targeted DSM and other non-facility options as alternatives, and that it intends to make an application to the OEB seeking approval of any IRP proposals later this year.

## Findings

The OEB finds that the project is needed to meet increased gas requirements and eliminate pressure-related constraints in the Forest-Hensall-Goderich Transmission System. The OEB accepts Enbridge Gas' analysis that while geo-targeted DSM would provide some improvement, it would be insufficient to eliminate the need for the new pipeline.

## 3.2 PROJECT COST AND ECONOMICS

Enbridge Gas estimated the cost of the Project to be \$28.5 million. Using the transmission test in the OEB's decision in E.B.O. 134, the Project's stand-alone profitability index (0.29) and net present value (negative \$20 million) are insufficient to establish economic feasibility. Including the benefits to customers at the stage 2 test and broader stage 3 tests, the Project is economically feasible.

OEB staff submitted that the Project appeared to be appropriately defined as a transmission asset, and that Enbridge Gas has applied the appropriate economic test as set out in E.B.O. 134.

In its submission, IGUA noted that while it was not objecting to the approval of the Project, its position was without prejudice to its pursuit of cross-subsidization and rate-

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<sup>1</sup> EB-2014-0134

<sup>2</sup> Enbridge Gas Inc. EB-2018-0306 Response to OEB staff interrogatory # 3(c)

making issues when the OEB considers the Incremental Capital Module (ICM) request for this Project as part of Enbridge Gas' 2019 rates application<sup>3</sup>.

## Findings

The OEB finds the estimated cost and project economics acceptable.

### 3.3 ENVIRONMENTAL IMPACTS

Enbridge Gas retained AECOM Canada Ltd. (AECOM) to complete an environmental assessment and to propose a route for the pipeline. Enbridge Gas followed the OEB's Environmental Guidelines<sup>4</sup> to assess the potential environmental impact of the Project. The environmental assessment, including alternative routing and proposed mitigation measures, was documented in an Environmental Report (ER) completed by AECOM on behalf of Enbridge Gas. AECOM does not anticipate any permanent or adverse environmental impacts from the construction and operation of the Project, provided the mitigation measures recommended in the ER are followed.

AECOM identified four alternative routes for the Project. The main reasons for selecting the final preferred route over the other three related to considerations of overall pipeline length, proximity to sensitive landforms, and potential conflicts with other existing infrastructure.

## Findings

The OEB accepts the Environmental Report and expects Enbridge Gas to adhere to the conditions of approval in Appendix A. The OEB finds that Enbridge Gas selected a preferred route for the proposed Project based on an adequate assessment of several potential routes. The OEB accepts AECOM's assessment that it does not anticipate any long-term impacts from the construction and / or operation of the proposed Project.

### 3.4 IMPACTS ON LANDOWNERS

Enbridge Gas stated that it has options to purchase three new station sites and that it has already acquired temporary land use rights for 11 sites. Section 97 of the OEB Act requires Enbridge Gas to satisfy the OEB that it has offered or will offer to each owner of land affected by the pipeline route an agreement in a form approved by the OEB. Enbridge Gas has requested that the OEB approve the form of Temporary Land Use

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<sup>3</sup> EB-2018-0305

<sup>4</sup> *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines in Ontario*, 7th Edition, 2016 (Environmental Guidelines)

Agreement, referenced at paragraph 71 of Enbridge Gas' pre-filed evidence. OEB staff submitted that the OEB should approve the form of agreement.

The OEB received letters from Mr. Allan Innes and Mr. Steven Veldman stating that there were a number of interested potential customers along the pipeline route. Enbridge Gas stated that it had offered natural gas service to customers along the route, but that the preliminary economic analysis (pursuant to the OEB's E.B.O. 188 guidelines) showed that there would be a shortfall even with the inclusion of either a Temporary Connection Surcharge or a System Expansion surcharge. Enbridge Gas reported that the customers have not expressed interest in bridging the shortfall with contributions-in-aid of construction. OEB staff submitted that Enbridge Gas appeared to have correctly treated the attachment of these customers in accordance with E.B.O. 188 and the OEB's decision in the Generic Proceeding on Community Expansion<sup>5</sup>.

## Findings

The OEB approves the proposed form of Temporary Land Use Agreement which was previously approved by the OEB in Union Gas Limited's Oxford Reinforcement Project application<sup>6</sup>.

## 3.5 INDIGENOUS CONSULTATION

In accordance with the OEB's Environmental Guidelines, Enbridge Gas contacted the Ministry of Energy, Northern Development and Mines (MENDM)<sup>7</sup> and received a letter on April 3, 2018 delegating the procedural aspects of the Crown's Duty to Consult for the Project to Enbridge Gas. Enbridge Gas followed direction from the MENDM on communities to consult.

On March 22, 2019, Enbridge Gas filed a letter from MENDM confirming that the procedural aspects of Indigenous consultation undertaken by Enbridge Gas for the Project were satisfactory.

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<sup>5</sup> EB-2016-0004

<sup>6</sup> EB-2018-0003

<sup>7</sup> Subsequent to Enbridge Gas filing its application, the Ministry of Energy (MOE) became the Ministry of Energy, Northern Development and Mines (MENDM).



## Findings

The OEB is satisfied that the duty to consult has been adequately discharged up to this stage of the project. The OEB expects Enbridge Gas will continue to work closely with any potentially impacted Indigenous communities as the project moves forward.

### 3.6 CONDITIONS OF APPROVAL

OEB staff proposed the conditions of approval typically attached to leave to construct decisions. Enbridge Gas reviewed the draft conditions of approval and indicated that it could agree to the draft conditions of approval.<sup>8</sup>

## Findings

The approved Conditions of Approval are attached as Schedule B to this Decision and Order. The OEB is adding two items to the draft conditions of approval – those items are set out in Conditions 7 and 8.

- The new Condition 7 requires Enbridge Gas to designate one of its employees as project manager who will be responsible for the fulfillment of the Conditions of Approval, and includes requirements related to the provision of that employee's name and contact information to the OEB and landowners and to the posting of that information on the construction site.
- The new Condition 8 identifies the OEB's designated representative for the purposes of the Conditions of Approval.

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<sup>8</sup> Enbridge Gas Inc. EB-2018-0306 Response to OEB staff interrogatory #14

## 4 ORDER

### THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Enbridge Gas Inc. is granted leave, pursuant to subsection 90(1) of the OEB Act, to construct approximately 10.8 kilometres of 12 inch diameter pipeline in the Counties of Oxford and Perth, as described in its application.
2. The OEB approves the proposed form of Temporary Easement Agreement that Enbridge Gas Inc. has offered or will offer to each owner of land affected by the approved pipeline route for the Project.
3. Leave to construct is subject to Enbridge Gas Inc. complying with the Conditions of Approval set forth in Schedule B.
4. 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 April 12, 2019.
5. Enbridge Gas Inc. shall file with the OEB and forward to intervenors any objections to the claimed costs of the intervenors on or before April 26, 2019.
6. If Enbridge Gas Inc. objects to the intervenor costs, intervenors shall file with the OEB and forward to Enbridge Gas Inc. any responses to any objections for cost claims on or before May 10, 2019.
7. Enbridge Gas Inc. shall pay the OEB's costs incidental to this proceeding upon receipt of the OEB's invoice.

**DATED** at Toronto March 28, 2019

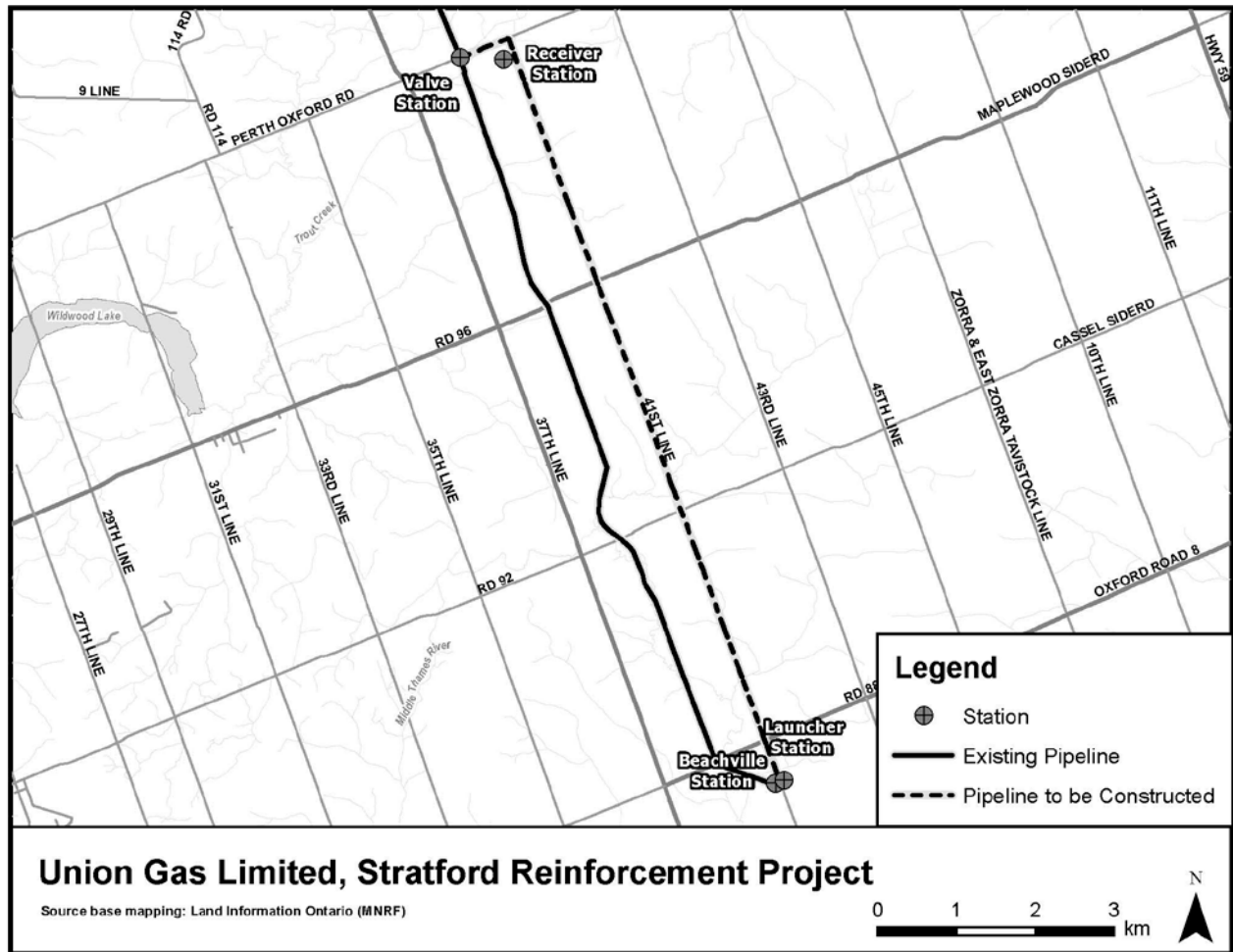
**ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Walli  
Board Secretary

**SCHEDULE A**  
**DECISION AND ORDER**  
**ENBRIDGE GAS INC.**  
**EB-2018-0306**  
**MARCH 28, 2019**

## SCHEDULE A – MAP



**SCHEDULE B**  
**DECISION AND ORDER**  
**ENBRIDGE GAS INC.**  
**EB-2018-0306**  
**MARCH 28, 2019**

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

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

**Enbridge Gas Inc.**

**EB-2018-0306**

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-2018-0306 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. 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.
5. Concurrent with the final monitoring report referred to in Condition 6(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.

6. 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:
    - i. provide a certification, by a senior executive of the company, of Enbridge Gas' 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 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.
7. 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 as well clearly posted on the construction site.
8. The OEB's designated representative for the purpose of these of Approval shall be the OEB's Manager of Supply and Infrastructure.