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**BY EMAIL**

May 24, 2019

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto ON M4P 1E4

Dear Ms. Walli:

**Re: Enbridge Gas Inc.  
Chatham-Kent Rural Project  
OEB Staff Submission  
Ontario Energy Board File Number: EB-2018-0188**

In accordance with Procedural Order No. 1, please find attached the OEB staff submission for the above proceeding. This document has been sent to Enbridge Gas Inc.

Enbridge Gas Inc. is reminded that its Reply Submission is due by May 31, 2019.

Yours truly,

*Original Signed By*

Azalyn Manzano  
Case Manager



# **ONTARIO ENERGY BOARD**

## **OEB STAFF SUBMISSION May 24, 2019**

**Enbridge Gas Inc. (formerly Union Gas Limited)  
Chatham-Kent Rural Project  
EB-2018-0188**

## Introduction

Union Gas Limited (now Enbridge Gas Inc., referred to below as Enbridge Gas)<sup>1</sup> 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-inch pipeline (Bear Line Section) and a 13 kilometre NPS 8-inch pipeline (Base Line Section). Enbridge Gas characterizes the Proposed Project as a reinforcement of the Chatham East Pipeline, which operates as a primary feed to several other downstream systems. Enbridge Gas plans to start construction in summer 2019 for an in-service date no later than September 1, 2019 for the Bear Line Section and November/December 2019 for the Base Line Section.

According to Enbridge Gas, the Proposed Project is needed to provide incremental capacity to meet identified and forecasted growth and alleviate the resulting pressure-related system constraints.

OEB staff addresses the economics and cost allocation of the Proposed Project. OEB staff has no concerns with other aspects of the Proposed Project. Provided its concerns are addressed, OEB staff would have no objection to the OEB granting LTC approval to Enbridge Gas for construction of the Proposed Project, subject to certain conditions of approval (see Appendix A).

## 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. The Ontario government cancelled the NGGP in September 2018. On November 29, 2018,

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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*. Union Gas Limited and Enbridge Gas Distribution Inc. amalgamated effective January 1, 2019 to become Enbridge Gas Inc.

the OEB placed Enbridge Gas' application in abeyance. On March 11, 2019, the Ontario government announced funding for the Chatham-Kent Rural Project through Bill 32, the *Access to Natural Gas Act, 2018* which will amend the OEB Act when it comes into force on July 1, 2019, and Ontario Regulation 24/19 – Expansion of Natural Gas Distribution Systems, made under the OEB Act and also scheduled to come into force July 1, 2019. The new legislation facilitates the expansion of natural gas across the Province. The purpose of the program is to mitigate or reduce the costs of expansion paid by newly-connected natural gas customers and subsidize these costs across the natural gas customer base. The program is designed to ensure that it recovers as closely as possible only the minimum costs necessary to make expansion projects economically viable<sup>2</sup>.

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.

The OEB issued a Notice of Hearing on March 28, 2019. Anwaatin Inc. (Anwaatin) and Industrial Gas Users Association (IGUA) were granted intervenor status.

The OEB issued Procedural Order No. 1 on April 17, 2019, setting the timeline for a written discovery process. OEB staff, Anwaatin and IGUA delivered written interrogatories. Enbridge Gas filed responses to written interrogatories on May 10, 2019.

The OEB staff submission is organized as follows:

- Need for the Project/Proposed Facilities and Alternatives
- Economics and Feasibility
- Routing and Environmental Matters
- Indigenous Consultation
- Land Matters
- Conditions of Approval

## **Need for the Project / Proposed Facilities and Alternatives**

### **Need for the Project**

Enbridge Gas stated that the Proposed Project is required to reinforce the Chatham Transmission System, in order to meet potential growth and identified customer demand within the Municipality of Chatham-Kent. The Chatham Transmission System serves a number of regions, including Chatham, Blenheim, Dresden, Wallaceburg, Kent Bridge,

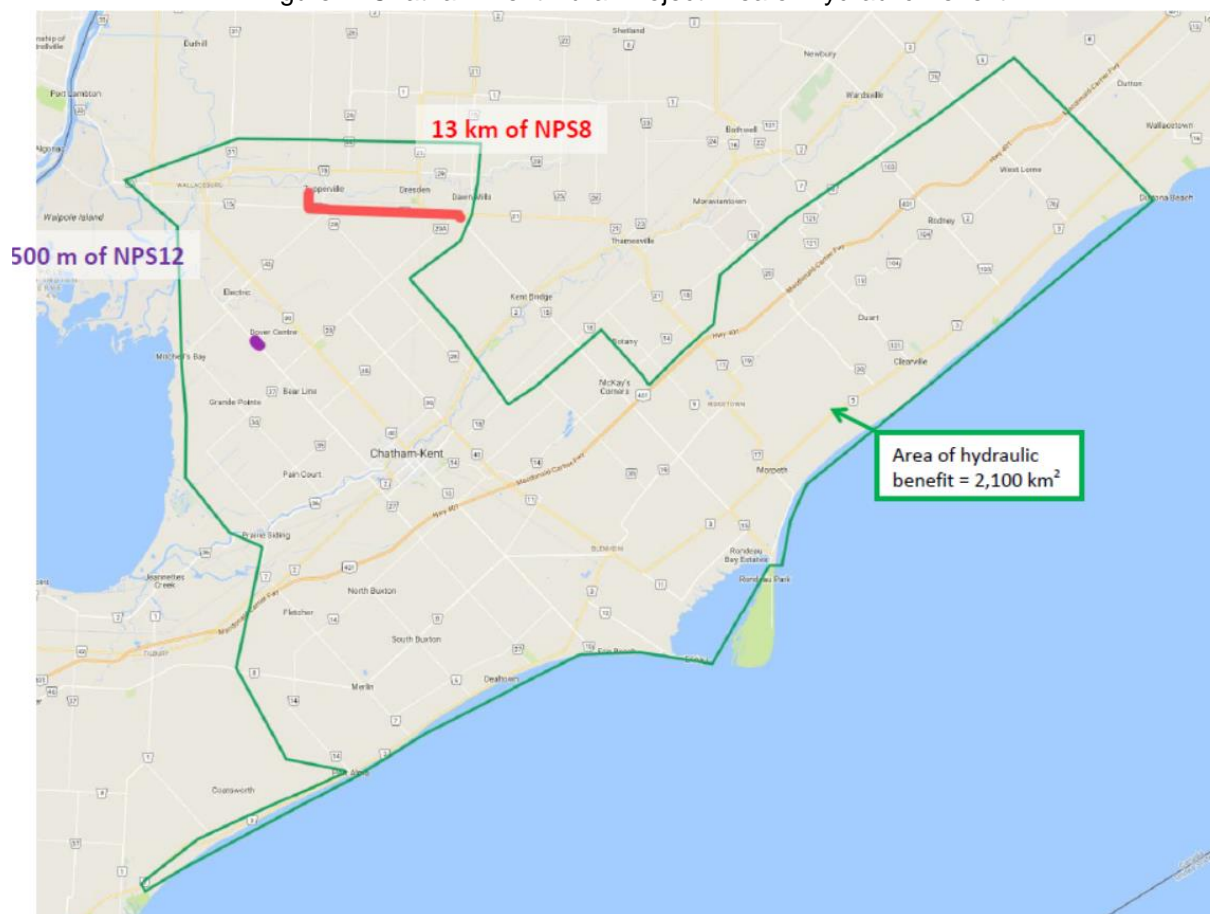
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<sup>2</sup> <https://ero.ontario.ca/notice/013-4060>

Ridgetown and Dutton.

Enbridge Gas expects the Proposed Project to increase natural gas capacity in the area of hydraulic benefit, depicted in Figure 1 below. Enbridge Gas' application stated that over the past few years, it has received inquiries 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 Proposed Project will allow it to serve multiple customers by providing economies of scale, and that with government funding, the Proposed Project will be economically feasible.

Figure 1. Chatham-Kent Rural Project Area of Hydraulic Benefit



Source: Enbridge Gas Inc. EB-2018-0188 Application, Schedule 4b

Enbridge Gas forecasted a total growth in large volume demand of 31,895 m<sup>3</sup>/hour by 2025 in the area serviced by the Proposed Project. Enbridge Gas expects an additional small volume demand of 3,237 m<sup>3</sup>/hour within the same period, for a total forecast cumulative demand of 35,132 m<sup>3</sup>/hour for the next seven years, as seen in Table 1 below.

Table 1. Forecasted Demand for the Chatham-Kent Rural Project

Forecasted Demand (m<sup>3</sup>/hour)

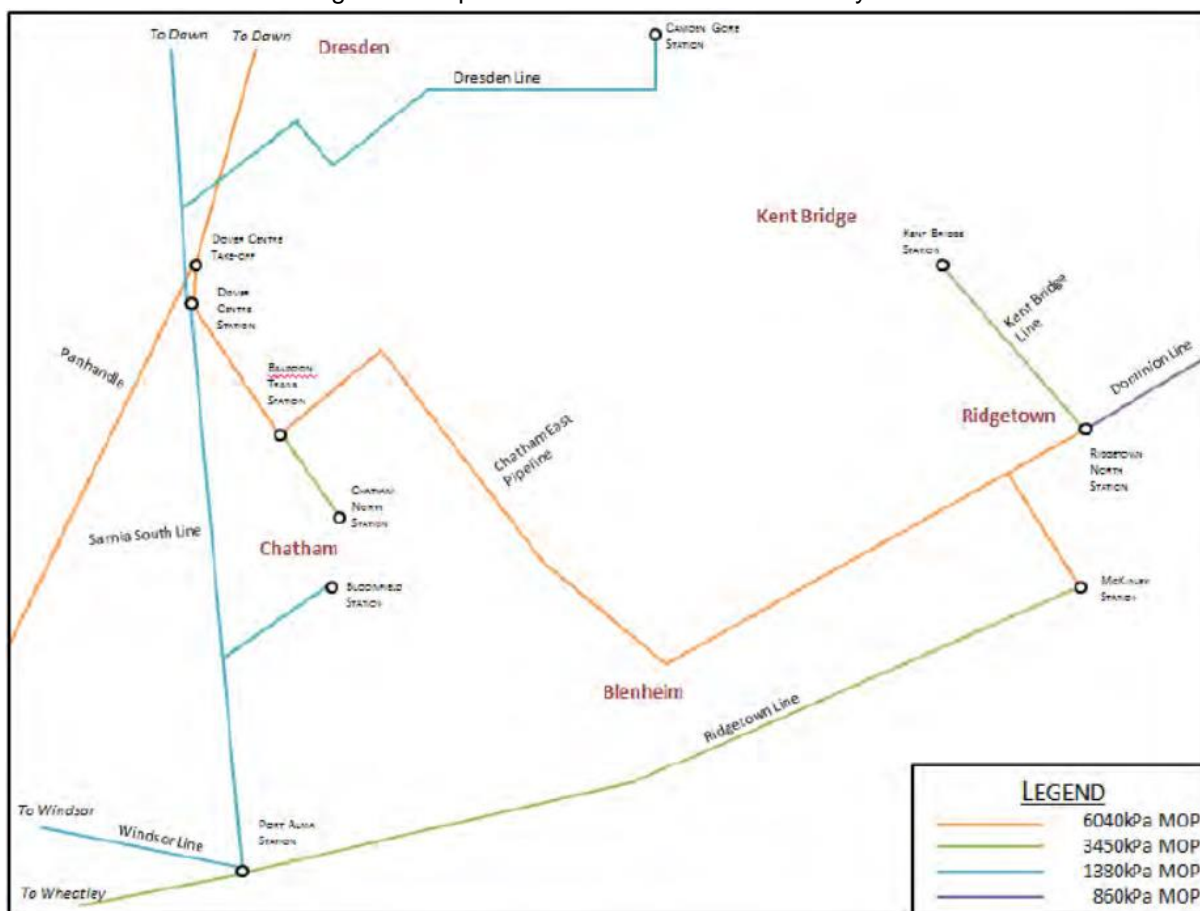
Commitment Letter	2019	2020	2021	2022	2023	2024	2025
Customer 1	1,185						
Customer 2	4,700						
Customer 3	6,500						
Customer 4	400		450				
Customer 5	2,250		4,200		4,200		4,100
Customer 6	850						
Non-specific Large Volume Growth						3,060	
Large Volume – Annual	15,885		4,650		4,200	3,060	4,100
Large Volume – Cumulative	15,885	15,885	20,535	20,535	24,735	27,795	31,895
Small Volume	475	463	520	508	407	457	407
Total – Annual	16,360	463	5,170	508	4,607	3,517	4,507
Total - Cumulative	16,360	16,823	21,993	22,501	27,108	30,625	35,132

Source: Enbridge Gas Inc. EB-2018-0188 Updated Application, page 10

Of the large volume demand, six customers represent 15,885 m<sup>3</sup>/hour beginning the first year of service, which is 50% of the total growth forecasted by Enbridge Gas for large volume demand for the seven-year period. Four contracts representing 14,635 m<sup>3</sup>/hour, or roughly 42% of the forecast demand, have been executed as of March 2019. Enbridge Gas stated that it expects the remaining two first year contracts to be executed as of May 2019. A further 12,950 m<sup>3</sup>/hour or 40% of the total growth forecasted by Enbridge Gas is supported by two of the above six customers' expansion plans over 2020 to 2024.

The Chatham Transmission System facilitates the flow of gas to the region from the Dawn-Parkway pipelines by way of four main pipelines: the NPS 12 Chatham East Pipeline; the NPS 10 Sarnia South Line; and NPS 2 and NPS 4 pipelines serving residential and small commercial customers around the Dover Centre Transmission Station. A map of the Chatham Transmission System is shown below.

Figure 2. Map of the Chatham Transmission System



Source: Enbridge Gas Inc. EB-2018-0188 Application, Schedule 3

Enbridge Gas stated that the Proposed Project will also mitigate pressure losses in high pressure pipelines caused by increased demand in the area. The pressure losses cannot be accommodated by an increase in pressure at the Dover Centre Station as it is currently operating at the maximum sustainable pressure allowed by the station and the downstream pipeline.

In addition, Enbridge Gas stated that the Proposed Project provides incremental capacity for forecasted and identified growth on the Dresden Line (see top of Figure 2), and allows for the possibility of extending the pipeline by eight kilometres in the future to Kent Bridge, which is expected to offset significant load from the Chatham East Pipeline.

## Proposed Facilities and Alternatives

The Proposed Project involves the construction of:

- 500 metres of NPS 12 pipeline from 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
- 13 kilometers of NPS 8 pipeline 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
- a new distribution station near the corner of Base Line Road and Kent Bridge Road
- upgrades to the take-off at the north end and the station at the south end of the Bear Line Section

Enbridge Gas filed a report titled *System Design Criteria for Reinforcement on the Chatham East Pipeline*. Among other things, this report identifies a number of alternatives to the Proposed Project:

- installing different diameter pipelines for Bear Line and Base Line
- a new lateral from the panhandle transmission system to support the Chatham East Pipeline
- joining two previously independent systems
- obtaining supply from nearby non-Union pipelines
- looping the system in different locations
- demand side management

Enbridge Gas stated that the Proposed Project was selected based on criteria including economics, cost, construction feasibility, number of years of capacity created, reliability of supply, system integrity benefits, and consideration of any other benefits (or shortcomings).

Enbridge Gas plans to start construction in summer 2019 for an in-service date no later than September 1, 2019 for the Bear Line Section and November/December 2019 for the Base Line Section.

### **OEB Staff Submission**

Given the evidence provided by Enbridge Gas, and subject to OEB staff's comments below, OEB staff agrees that there is a need for the Proposed Project. The other alternatives as 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 has some concerns about whether sufficient demand will materialize to completely contract the total capacity of the Proposed Project, OEB staff submits that

the currently contracted and identified (expansion) demand growth demonstrates that there is a need for additional capacity in the area. OEB staff is of the view that an infrastructure solution is appropriate. Enbridge Gas determined that supply from a nearby storage pool or a local producer, or alternatively, implementing demand side management, are inadequate solutions to accommodate the expected demand.

## Economics and Feasibility

The total estimated pipeline and station costs for the Proposed Project are \$19.1 million. Enbridge Gas stated that its updated estimate included an increase in its Construction and Labour costs for the Proposed Project, as Enbridge Gas and its contractor have refined the detailed design, temporary land needs and construction plans for the Proposed Project since the original filing. To maintain the overall costs at \$19.1 million, Enbridge Gas stated that it has adjusted the contingency from 19% to 15%<sup>3</sup>.

The Ontario Government has committed \$8 million of rate protection to the Proposed Project through the *Access to Natural Gas Act, 2018* and Ontario Regulation 24/19, and the Municipality of Chatham-Kent has committed \$500,000. Enbridge Gas stated that both amounts will be treated as contributions in aid of construction (CIAC), which reduces the net capital cost for leave to construct approval to \$10.6 million. Enbridge Gas stated that it has not included the Proposed Project as part of its 2019 ICM application<sup>4</sup>, but that it would propose to include the cost of the Proposed Project in rates as part of its 2024 rebasing proceeding.<sup>5</sup> In essence, this means that the costs of the Proposed Project will not impact rates until 2024.

Enbridge Gas is proposing to allocate the net capital cost (capital cost of the Proposed Project less the CIAC from each of the Ontario government and the municipality, and the capital to be recovered from future customers) to large volume customers through an Hourly Allocation Factor (HAF). The HAF is used in calculating whether a CIAC is required from each large volume customer, depending on the contract term and volume selected. This proposal is consistent with the cost recovery approach used in Union Gas' Leamington Expansion Phase 2 leave to construct application<sup>6</sup>. Enbridge Gas calculated the HAF by dividing the net capital (\$8.6 million) by the incremental capacity allocated to large volume customers (30,045 m<sup>3</sup>/hr), as shown below.

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<sup>3</sup> Response to OEB staff interrogatory # 5(a)

<sup>4</sup> Response to OEB staff interrogatory # 2(w)

<sup>5</sup> Response to OEB staff interrogatory # 2(x)

<sup>6</sup> EB-2016-0013

Table 2. Hourly Allocation Factor Calculation

Line	Item	Amount
1	13 km of NPS8 Pipeline	\$17,900,000
2	500 metres of NPS 12 Pipeline	\$1,209,000
3	NGGP Grant	-\$8,000,000
4	Municipal Contribution	-\$500,000
5	Capital to be recovered from future customers	-\$2,000,000
6	Net Capital (1+2+3+4+5) to be recovered from identified large volume customer requests	\$8,609,000
7	Capacity (m <sup>3</sup> /hour) <sup>10</sup>	30,045
8	Customer Hourly Allocation Factor (6/7) (\$/m <sup>3</sup> /hour)	\$287

Source: Enbridge Gas Inc. EB-2018-0188 Updated Application, page 16

Enbridge Gas expects to allocate a HAF of \$287 per m<sup>3</sup>/hour to the customer-specific DCF calculations of every large customer (requiring a demand capacity of 200 m<sup>3</sup>/hour and greater) in the area that receives incremental capacity from the Proposed Project (i.e. is in the area of hydraulic benefit). This is in addition to the cost of customer-specific facilities required by the customer (e.g. customer station, service line, distribution main). Once the total incremental capacity of large volume customers in the area of hydraulic benefit reaches 31,895 m<sup>3</sup>/hour, Enbridge Gas stated that it will stop applying the HAF to new loads in the area of hydraulic benefit.

OEB staff noted in interrogatories that the incremental capacity used to calculate the HAF (30,045 m<sup>3</sup>/hr) did not match Enbridge Gas' forecast total growth in large volume demand (31,895 m<sup>3</sup>/hr) (see Table 1 above). Enbridge Gas stated in its interrogatory response that at the time that the NGGP application was being prepared, the demand forecast was 30,045 m<sup>3</sup>/hr, and that it was subsequently updated to 31,895 m<sup>3</sup>/hr given a more up-to-date understanding of customer needs and demand forecast potential.<sup>7</sup> When OEB staff asked whether the HAF could be recalculated based on the updated large volume demand forecast, Enbridge Gas stated that it had elected to hold the HAF constant as some contracts had already been executed based on the \$287/m<sup>3</sup>/hr HAF, and that adding the 1,940 m<sup>3</sup>/hr of incremental capacity to the HAF calculation would only reduce the HAF by 6% to \$270/m<sup>3</sup>/hr<sup>8</sup>, and in Enbridge Gas' view, this difference is immaterial.<sup>9</sup>

Through interrogatory responses, Enbridge Gas also stated that the Proposed Project, with an NPS 8 for the Base Line Section, is expected to provide an incremental capacity of 65,000 m<sup>3</sup>/hr<sup>10</sup>. OEB staff notes that this is not consistent with the 35,132 m<sup>3</sup>/hr as

<sup>7</sup> Response to OEB staff interrogatory # 2(b)i

<sup>8</sup> Response to OEB staff interrogatory # 2(b)ii

<sup>9</sup> Response to OEB staff interrogatory # 2(b)i

<sup>10</sup> Enbridge Gas also stated that this amount is highly dependent on the attachment location of forecasted

set out in the application, nor is it consistent with the demand forecast provided in Table 1 above<sup>11</sup>. Enbridge Gas explained that the minimum design required to supply the forecasted demands on the Base Line Section was actually NPS 6, which would have had an approximate capacity of 35,132 m<sup>3</sup>/hr, but that it had decided to upsize the pipeline to NPS 8 as it would otherwise “be uneconomic to serve potential future growth beyond the term of the initial forecast”.

Enbridge Gas further stated that it only intends to recover the cost of the NPS 6 project, and that it has decided to carry the cost of upsizing the pipeline to NPS 8 (initially estimated at \$2 million) and to not pass those costs on to customers contracting as part of the Proposed Project<sup>12</sup>. It is not clear to OEB staff what Enbridge Gas means by “carrying the cost”. More particularly, Enbridge Gas has not indicated whether it intends to “carry the cost” of upsizing the pipeline indefinitely, or only until rebasing in 2024. Enbridge Gas stated that “upsizing the pipeline now will help provide capacity at a reduced cost in the future to future customers”<sup>13</sup>.

For a comprehensive analysis, Enbridge Gas included the distribution capital for projected customer additions in the preliminary discounted cash flow (DCF) analysis for the Proposed Project. Enbridge Gas stated that the Proposed Project has a Net Present Value (NPV) of \$425,000 and a Profitability Index (P.I.) of 1.03. The economic model for large volume growth shows growth over a seven year period and revenues calculated over a 20 year period, to reflect the 20 year contract signed with one of the customers. Enbridge Gas stated that of the four contracts executed so far, three contracts have been executed with a 15 year term without any CIAC or Incremental Demand Charge Premium, and one contract has been executed with a 20 year term and an Incremental Demand Charge Premium<sup>14</sup>.

Enbridge Gas stated that as the Proposed Project has a P.I. of 1.03, Enbridge Gas believes that there will be no cross-subsidization from ratepayers as long as the total incremental capacity of customers requiring more than 200 m<sup>3</sup>/hr reaches 31,895 m<sup>3</sup>/hr.<sup>15</sup> Enbridge Gas also stated that as 50% of the forecasted demands are under executed contracts or contracts expected to be executed this year, Enbridge Gas

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non-specific customers.

<sup>11</sup> Response to OEB staff interrogatory # 2(a)

<sup>12</sup> Response to OEB staff interrogatory # 3(d)

<sup>13</sup> Response to OEB staff interrogatory # 3(d)

<sup>14</sup> Response to OEB staff interrogatory # 2(l), 2(c). Enbridge Gas stated that for the Proposed Project, customers who do not meet a PI of 1.0 even after extending their contracts to 20 years have been offered the choice between paying a CIAC upfront or an Incremental Demand Charge Premium, the latter of which would be paid monthly and be treated by Enbridge Gas as revenue.

<sup>15</sup> Response to OEB staff interrogatory # 2(x)

considers the risk of demand being materially less than forecast to be low, and that “if contracts are terminated, counterparties will continue to be responsible for compensating Enbridge Gas for the remaining value of the associated contracts”<sup>16</sup>.

Enbridge Gas maintains that the Proposed Project is meant to encourage economic growth by providing incremental capacity to the area, and that the Proposed Project’s selection through the NGGP process confirms its expected potential to do so. Enbridge Gas has stated that it is confident in the demand forecast provided for the Proposed Project<sup>17</sup>, and that in the original Expression of Interest (EOI) process, Enbridge Gas received 43 responses from interested parties totaling over 51,000 m<sup>3</sup> in hourly demand.

### **OEB Staff Submission**

OEB staff notes that there is clear support from the Ontario government for the Proposed Project given the rate protection provided to the Proposed Project through the amendments to the OEB Act under Bill 32, and through Ontario Regulation 24/19<sup>18</sup>.

OEB staff has proposed a two-step approach, as further described below, which will allow the Proposed Project to proceed while addressing OEB staff’s issues related to the allocation of costs and risk that underpin Enbridge Gas’ methodology.

In OEB staff’s view, the Proposed Project is atypical in that the need for the Proposed Project appears to be driven by the forecast demand for large volume customers in the area, yet only a quarter of the total capacity of the Proposed Project has been contracted to date. OEB staff submits that Enbridge Gas does not adequately justify the need to upsize the Base Line Section of the pipeline from NPS 6 to NPS 8. Enbridge Gas has not filed any evidence that illustrates when or how it expects the full capacity of the NPS 8 pipeline to be utilized. Presently, there is a gap between the application’s stated total cumulative forecast demand of 35,132 m<sup>3</sup>/hr by 2025 and the total capacity of the Proposed Project at 65,000 m<sup>3</sup>/hr. It appears to OEB staff that Enbridge Gas believes that upsizing the pipeline is justified given the interest from the market as evidenced by the EOI responses totaling over 51,000 m<sup>3</sup>/hr, and Enbridge Gas’ belief that “...the increased capacity will provide economic development opportunity for the area...”<sup>19</sup>, thereby attracting future customers<sup>20</sup>, but in OEB staff’s view, there is no concrete evidence provided to support these statements.

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<sup>16</sup> Response to OEB staff interrogatory # 2(y)

<sup>17</sup> Response to OEB staff interrogatory # 2(z)

<sup>18</sup> <https://news.ontario.ca/moi/en/2019/03/ontario-expanding-access-to-natural-gas-in-chatham-kent.html>

<sup>19</sup> Response to OEB staff interrogatory # 3(d), referencing Enbridge Gas’ NGGP application

<sup>20</sup> Response to IGUA interrogatory # 1(a)

As a result, OEB staff has two specific issues with Enbridge Gas' proposal relating to the allocation of costs and risks. OEB staff is of the view that:

- 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
- 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 and roughly only half of the NPS 6 pipeline has been contracted to date

Enbridge Gas stated the difference between a HAF of \$287/m<sup>3</sup>/hr, as calculated with the original demand forecast of 30,045 m<sup>3</sup>/hr, and a HAF of \$270/m<sup>3</sup>/hr, as calculated with the updated demand forecast of 31,895 m<sup>3</sup>/hr, is immaterial. However, based on OEB staff's calculations (see Table 3 below), for at least one customer, lowering the HAF from \$287/m<sup>3</sup>/hr to \$270/m<sup>3</sup>/hr reduces the customer's capital cost by \$110,500. It is not clear to OEB staff that customers would necessarily agree that the difference between these HAF calculations is immaterial.

Table 3. Hourly Allocation Factor Comparison

Customer	2019 m <sup>3</sup> /hr	HAF <sub>1</sub> m <sup>3</sup> /hr	Capital Cost	HAF <sub>2</sub> m <sup>3</sup> /hr	Capital Cost	Delta	
1	1,185	287	\$ 340,095	270	\$ 319,950	\$ 20,145	5.9%
2	4,700	287	\$1,348,900	270	\$1,269,000	\$ 79,900	5.9%
3	6,500	287	\$1,865,500	270	\$1,755,000	\$110,500	5.9%
4	400	287	\$ 114,800	270	\$ 108,000	\$ 6,800	5.9%
5	2,250	287	\$ 645,750	270	\$ 607,500	\$ 38,250	5.9%
6	850	287	\$ 243,950	270	\$ 229,500	\$ 14,450	5.9%
					Average	\$ 45,008	

To the extent a lower HAF would either reduce a customer's CIAC/Incremental Demand Charge Premium or its contract length, that lower HAF may have a material impact for the customer. Enbridge Gas may wish to clarify or address this observation in its reply submission without introducing new evidence.

OEB staff also submits that the HAF may be overstated as result of the HAF being calculated based on the capacity enabled by an NPS 6 pipeline, rather than the capacity of the NPS 8 pipeline being constructed. OEB staff's calculations (see Table 4 below) illustrate that the HAF could be significantly reduced – in fact, by nearly 40% – if the

HAF calculation were based on the 61,763 m<sup>3</sup>/hr capacity of the pipeline<sup>21</sup>.

Table 4. HAF Recalculation

Item	Original	Recalculated
13 km of NPS 8 Pipeline	\$17,900,000	\$17,900,000
500 metres of NPS 12 Pipeline	\$1,209,000	\$1,209,000
NGGP Grant	-\$8,000,000	-\$8,000,000
Municipal Contribution	-\$500,000	-\$500,000
Capital to be recovered from future customers	-\$2,000,000	
Net Capital to be recovered from identified large volume customer requests	\$8,609,000	\$10,609,000
Capacity (m <sup>3</sup> /hour)	30,045	61,763
<b>Customer Hourly Allocation Factor (\$/m<sup>3</sup>/hr)</b>	<b>\$287</b>	<b>\$172</b>

OEB staff submits that it is unfair for the six identified large volume customers, as well as the customers making up the expected “non-specific large volume growth”, to be contractually required to bear the majority of the cost of the Proposed Project now, while future customers benefit from the upsized pipeline and avoiding the allocation of capital costs through the HAF.

OEB staff also has some concerns as to the allocation of risk. Enbridge Gas stated that it had decided to upsize the pipeline to NPS 8 as it would otherwise “be uneconomic to serve potential future growth beyond the term of the initial forecast”. As noted above, however, Enbridge Gas has not filed a demand forecast that illustrates when or how it expects that the full capacity of the NPS 8 pipeline will be utilized. OEB staff notes that through the EOI process, Enbridge Gas received responses totaling 51,000 m<sup>3</sup>/hour, nearly 12,000 m<sup>3</sup>/hour less than the capacity of the NPS 8 pipeline. OEB staff also notes that at present, only 14,635 m<sup>3</sup>/hour, or roughly a quarter of the 61,763 m<sup>3</sup>/hr capacity of the NPS 8 pipeline, is contracted. Moreover, OEB staff notes that the forecast large volume customers are expected to be in one sector (greenhouse), and it is not clear how the forecast might be impacted if growth in the greenhouse sector does not materialize as expected.

Given the circumstances of this Proposed Project, OEB staff suggests a two-step solution that could more fairly allocate the costs and the risks of the Proposed Project, if additional large volume customers later connect to the area of benefit.

<sup>21</sup> OEB staff calculated 61,763 m<sup>3</sup>/hr by taking the 65,000 m<sup>3</sup>/hr capacity of the NPS 8 pipeline and taking away the forecasted growth of 3,237 m<sup>3</sup>/hr for small volume customers. OEB staff requests that Enbridge Gas confirm if this is the appropriate denominator given that the small volume demand forecast only goes until 2025, as opposed to a 20-year forecast.

**1. True-up when additional large volume customers contract for capacity beyond 30,045 m<sup>3</sup>/hr.**

OEB staff suggests that despite its concerns regarding the potential overstatement of the HAF, Enbridge Gas could use the HAF as it originally calculated (\$287/m<sup>3</sup>/hr) for the time being. Enbridge Gas would then recalculate the HAF for each large volume customer at 5 year, 10 year and 15 year intervals based on the total contracted demand at that time. This would allow Enbridge Gas to determine whether a customer's contract length/total Incremental Demand Charge Premium could be reduced or whether a refund was owing for any CIAC paid up front.

This would be similar to the mechanism employed in the Leamington Phase 2 proceeding for the treatment of interruptible revenues, where Union Gas Limited agreed to track revenues from the sale of interruptible capacity created by the project for a period of time and then apply these revenues to contracts held by customers at the end of the period, thereby potentially reducing the length of those contract terms on a going forward basis.

This would also be similar to the mechanism in place under the Transmission System Code for electricity transmission lines that have been funded by a customer. Where a customer has made a capital contribution for the construction or modification of a transmitter-owned connection facility, the transmitter provides a refund if capacity on the line is assigned to another customer within fifteen years after the date on which the facility comes into service<sup>22</sup>.

OEB staff suggests that these contract true up calculations would only be for volumes, and not for other changes, such as differences in project construction costs. OEB staff also submits that these contract true up calculations should not account for lower than forecast volumes at the time of the 5 year, 10 year and 15 year refund calculations. OEB staff is of the view that it is unfair to potentially increase a customer's contract length/total Incremental Demand Charge Premium, or to require additional CIAC in the future, for matters that are not within a customer's ability to control.

**2. Adjust the cost to be included in rate base depending on actual customer demand.**

With respect to the rate base amounts related to the Proposed Project, if customers have utilized more than 35,132 m<sup>3</sup>/hr<sup>23</sup> at the time of the next rebasing, then the entire capital cost<sup>24</sup> of the Proposed Project (net of the grants) should be allowed to be

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<sup>22</sup> Section 6.3.17 of the Transmission System Code

<sup>23</sup> 35,132 m<sup>3</sup>/hr is the stated capacity of the NPS 6 pipeline.

<sup>24</sup> The prudence of the actual capital costs will be reviewed at the time of the next rebasing.

included in rate base (i.e. including the \$2 million cost to upsize the Base Line Section to NPS 8), as having more demand in place than the capacity of the NPS 6 pipeline would justify the need for Enbridge Gas to have constructed an NPS 8 pipeline.

If customers have utilized less than the forecasted 35,132 m<sup>3</sup>/hr demand at the time of the next rebasing, OEB staff submits that ratepayers should not have to bear the cost of upsizing from NPS 6 to NPS 8. Enbridge Gas should only be able to include in rate base the actual capital cost of the Proposed Project<sup>25</sup> less the \$2 million that Enbridge Gas has stated that it would carry related to the upsizing, if the forecasted demand has not materialized at rebasing.<sup>26</sup> This means that the \$2 million cost to upsize the pipeline to NPS 8 would not be included in rate base, as the total demand in place would be less than the capacity of the NPS 6 pipeline and the need for Enbridge Gas to have constructed an NPS 8 pipeline would not have been justified.

OEB staff recognizes that the demand forecast stretches past the next rebasing in 2024, and submits that whether or not Enbridge Gas is allowed to include the \$2 million upsizing cost in its rate base can be revisited at each rebasing until the actual incremental demand for the area exceeds 35,132 m<sup>3</sup>/hr.

## Routing and Environmental Matters

To assist in selecting a preferred route for the pipeline, Enbridge Gas retained Stantec Consulting (Stantec) to complete an Environmental Assessment for the Proposed Project in accordance with the requirements of the OEB's *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario*, 7th Edition, 2016 (OEB Environmental Guidelines).<sup>27</sup> Stantec identified Preliminary Preferred Routes (PPRs) for the pipelines along Base Line and Bear Line. Stantec prepared two Environmental Reports (ERs) – one for the segment of pipeline on Base Line and one for the segment on Bear Line.<sup>28</sup>

Following its consultation activities, Enbridge Gas selected the PPRs along Bear Line<sup>29</sup>

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<sup>25</sup> The prudence of the actual capital costs will be reviewed at the time of the next rebasing.

<sup>26</sup> OEB staff recognizes that a cross-subsidy between the customers benefiting from the proposed Project and other customers could occur if Enbridge Gas sells less than the 30,045 m<sup>3</sup>/hr upon which the contracts were established. However, OEB staff believes that this is reasonable as there is no way to custom size a pipeline to exactly fit the forecasted demand.

<sup>27</sup> Application (updated March 2019), page 24

<sup>28</sup> Application, Schedule 19 Environmental Report – Bear Line and Schedule 20 Environmental Report – Base Line

<sup>29</sup> Application, Environmental Protection Plan, Section 3

and Base Line<sup>30</sup> as its final preferred routes. The final preferred routes provide the most direct route between the endpoints, have the fewest potential watercourse or drain crossings, and are significantly shorter than the other options.

The ERs identify potential environmental and/or socio-economic impacts that the Proposed Project could have on the existing environment, and recommends mitigation measures to minimize the impacts. Stantec does not anticipate any long-term impacts from the construction and / or operation of the Proposed Project if the mitigation measures recommended in the ERs are implemented.<sup>31</sup>

A copy of each ER was submitted to the Ontario Pipeline Coordination Committee (OPCC) on February 8, 2018, and an update of the Base Line ER was submitted on June 1, 2018.<sup>32</sup> In response to an interrogatory, Enbridge Gas provided an updated summary of the OPCC review comments.<sup>33</sup> The response provided by Enbridge Gas indicates that there are no outstanding concerns from OPCC members.

### **OEB Staff Submission**

OEB staff notes that Stage 1 Archaeology Assessments (AAs) have been completed and submitted to the MTCS; however, one Stage 2 AA has not yet been completed<sup>34</sup>. In addition to the standard conditions of approval (see below), OEB staff submits that leave to construct should be conditional on Enbridge Gas filing with the OEB a clearance letter from the MTCS for the Proposed Project. A revised set of conditions is provided in Appendix A.

OEB staff accepts the selection of the final preferred route compared to the other alternative routes. OEB staff accepts that there should be no long-term environmental and/or socio-economic impacts from the construction and/or operation of the Pipeline as long as Enbridge Gas adheres to the mitigation measures recommended in the ERs and the OEB's conditions of approval.

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<sup>30</sup> Updated Schedule 20 Environmental Report – Base Line, section 2

<sup>31</sup> Application, Schedule 19 Environmental Report – Bear Line, Section 3; updated Schedule 20 Environmental Report – Base Line, section 7

<sup>32</sup> Application (updated March 2019), page 25

<sup>33</sup> Response to OEB staff interrogatory #7

<sup>34</sup> Response to OEB staff interrogatory #6

## Indigenous Consultation

In accordance with the OEB's Environmental Guidelines, Enbridge Gas contacted the Ministry of Energy, Northern Development and Mines (MENDM) with respect to the Crown's duty to consult on December 20, 2017<sup>35</sup>. In a letter dated February 2, 2018, the MENDM delegated the procedural aspects of Duty to Consult for the Proposed Project to Enbridge Gas and specifically identified the six Indigenous groups that may be adversely affected by the Proposed Project<sup>36</sup>. Enbridge Gas submitted evidence of its Indigenous consultations to the MOE, and on March 4, 2019 received a written reply from the MOE stating that, "...the Ministry is of the opinion that the procedural aspects of consultation undertaken by Enbridge to date for the purposes of the Ontario Energy Board's Leave to Construct for the Chatham-Kent Pipeline Project is satisfactory."<sup>37</sup>

### OEB Staff Submission

OEB staff submits that Enbridge Gas has satisfied the procedural aspects of the Crown's duty to consult.

## Land Matters

The proposed pipeline routes are located within road allowances<sup>38</sup>. Enbridge Gas will require 2.62 acres of fee simple land for the proposed station works, and it has obtained options for the two fee simple purchases for these land rights<sup>39</sup>.

Enbridge Gas stated that no permanent easements are required to construct the Proposed Project<sup>40</sup>. Temporary land rights to facilitate easier and more efficient installation of the pipeline along road allowances will be required. Enbridge Gas has acquired options for all temporary land use agreements needed for the Proposed Project<sup>41</sup>. 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>42</sup>.

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<sup>35</sup> Application (updated March 2019), Schedule 23, page 12

<sup>36</sup> *Ibid.*, page 15

<sup>37</sup> *Ibid.*, Schedule 24

<sup>38</sup> Application, page 19

<sup>39</sup> Application (updated March 2019), page 23

<sup>40</sup> Application, page 19

<sup>41</sup> Response to OEB staff Interrogatory #6

<sup>42</sup> EB-2018-0013

**OEB Staff Submission**

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

**Conditions of Approval**

The OEB Act permits the OEB, when making an order, to "impose such conditions as it considers proper."<sup>43</sup> Through an interrogatory, OEB staff asked Enbridge Gas to review and comment on a set of proposed conditions of approval. Enbridge Gas accepted the draft conditions of approval as proposed by OEB staff<sup>44</sup>.

**OEB Staff Submission**

OEB staff submits that the OEB should approve the Proposed Project subject to the conditions of approval attached as Appendix A to this submission. In addition to the conditions previously reviewed by Enbridge Gas, OEB staff submits that leave to construct should be conditional on Enbridge Gas filing with the OEB a clearance letter from the MTCS for the Proposed Project. A revised set of conditions is provided in Appendix A.

All of which is respectfully submitted.

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<sup>43</sup> OEB Act, s. 23

<sup>44</sup> Response to OEB staff Interrogatory #8

## **Appendix A**

**Leave to Construct Conditions of Approval Application**  
**Enbridge Gas Inc.**  
**EB-2018-0188**

1. Enbridge Gas Inc. (Enbridge Gas) shall construct the facilities and restore the land in accordance with the Board's Decision and Order in EB-2018-0188 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 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 Protection Plan 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 of Enbridge Gas filing with the OEB a clearance letter from the MTCS 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 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. 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:
    - 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 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 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.
9. The OEB's designated representative for the purpose of these Conditions of Approval shall be the OEB's Manager of Supply and Infrastructure.