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BY EMAIL

June 27, 2019

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
BoardSec@oeb.ca

Dear Ms. Walli:

**Re: Ontario Energy Board (OEB) Staff Submission
Enbridge Gas Inc. - Georgian Sands Leave to Construct Application
OEB File Number: EB-2018-0226**

In accordance with Procedural Order No. 2, please find attached the OEB staff submission in the above proceeding. The attached document has been forwarded to Enbridge Gas Inc. and to all other registered parties to this proceeding.

Enbridge Gas Inc. is reminded that its reply submission are due by July 9, 2019.

Yours truly,

Original Signed By

Saleh Lavaee
Advisor, Supply & Infrastructure

Encl.



ONTARIO ENERGY BOARD

OEB Staff Submission

**Enbridge Gas Inc.
Georgian Sands Pipeline Project**

**Application for Leave to Construct Gas Distribution Pipelines
and Associated Facilities in Simcoe County**

EB-2018-0226

June 27, 2019

Introduction

Enbridge Gas Inc. (Enbridge Gas) requests leave to construct a total of approximately 8 meters of nominal pipe size (NPS) 8, extra high pressure and approximately 6.4 kilometers of NPS 6, intermediate pressure natural gas pipelines along with a new district station in Simcoe County (Project).

Enbridge Gas states that the Project is a system expansion project that is being built to serve the Georgian Sands planned subdivision in Simcoe County (Georgian Sands).

Enbridge Gas is seeking approval of the following orders:

- a) Leave to construct the Project, under section 90 of the *Ontario Energy Board Act* (OEB Act)
- b) Approval of the proposed form of easement agreements, under section 97 of the OEB Act

Enbridge Gas has requested a written hearing with a decision no later than the end of July 2019, so that it can serve residents, businesses and industrial customers with natural gas for the 2019-2020 heating season.

In its submission below, OEB staff sets out its concerns and comments on some aspects of the application. Provided those concerns are addressed, OEB staff would have no objection to the OEB granting leave to construct approval to Enbridge Gas for construction of the Project, subject to certain Conditions of Approval (see Appendix A).

Process

Enbridge Gas filed its application on February 27, 2019. The OEB issued a Notice of Hearing on March 27, 2019. Anwaatin Inc. (Anwaatin) applied for intervenor status and cost eligibility. No objection was received from Enbridge Gas.

In Procedural Order No. 1 issued on April 25, 2019, the OEB approved Anwaatin as an intervenor and made provision for interrogatories and interrogatory responses. Interrogatories were filed by OEB staff and Anwaatin on May 9, 2019 and responded to by Enbridge Gas on May 23, 2019. On June 18, 2019, the OEB issued Procedural Order No. 2 which made provision for submissions and reply submission.

The OEB staff submission is organized as follows:

1. Project Need, Proposed Facilities and Alternatives
2. Economics and Feasibility
3. Routing and Environmental Matters
4. Indigenous Consultation
5. Land Matters
6. Municipal Franchise Agreements and Certificates
7. Conditions of Approval

1. Project Need, Proposed Facilities and Alternatives

Enbridge Gas stated that the Project is needed to serve the new residential and commercial customers in Georgian Sands and ensure reliability of natural gas to such customers. Enbridge Gas' evidence shows that customer growth in the subdivision will reduce capacity within the existing gas network and therefore a reinforcement is needed to meet new customer growth and ensure continued reliability for existing customers.

Table 1: Incremental Customer Addition Forecast¹

	Phase 1 2020	Phase 2 2021	Phase 3 2022	Phase 4 2023	Total
Residential units	325	160	318	369	1172
Apartment bldg	0	0	0	0	0
Commercial units	0	0	0	1	1
School	0	0	1	0	1
Total	325	160	319	370	1174

Enbridge Gas provided the above forecast of customer additions (Table 1) for the Project, which sets out the projected customer growth in Georgian Sands over four phases. Enbridge Gas stated that the Project is a system expansion project that will create an extension from the existing natural gas distribution system by building a total of approximately 8 meters of NPS 8, extra high pressure and approximately 6.4 kilometers of NPS 6, intermediate pressure natural gas pipelines along with a new district station to provide natural gas service to the future customers of Georgian Sands. A diagram of the Project is provided in Figure 1 below.

¹ Application, Exhibit B, Tab 1, Schedule 1, p. 2

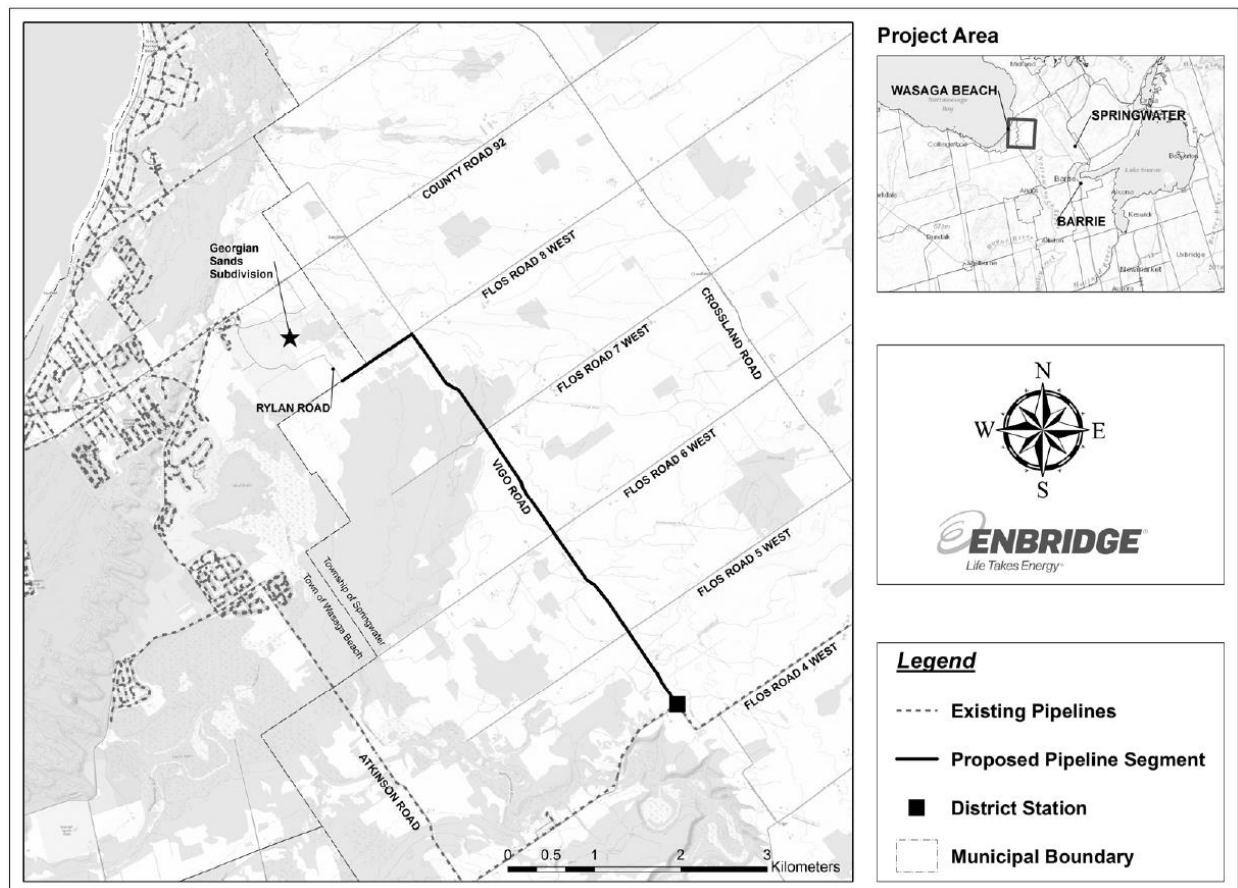


Figure 1: Proposed Facilities in the Georgian Sand Project²

Enbridge Gas stated that because this is a system expansion project that is required to add new customers to Georgian Sands, Demand Side Management (DSM) is not an option. Enbridge Gas stated that DSM was not considered as an alternative to the Project due to the practicality and feasibility of DSM in the context of an expansion project for a new subdivision.³ DSM will not allow new customers to be connected to the system as requested by the developer of Georgian Sands, ELM Developments, as per the timeline outlined in the evidence.⁴

Enbridge Gas indicated that the existing intermediate pressure polyethylene natural gas pipeline in the area is not sufficient to support the full forecasted load of Georgian Sands, even taking into consideration different options, such as extending or looping existing pipeline within the existing intermediate pressure network in the area. Enbridge Gas stated that the developer in Georgian Sands is expected to add 1,455 residential

² Application, Exhibit B, Tab 1, Schedule 1, Attachment 1, p. 1

³ Response to OEB staff interrogatory # 2(i)

⁴ Application, Exhibit B, Tab 1, Schedule 1, Table 1

units, while the existing gas network has enough volume to support the addition of only 283 residential customers. Therefore, Enbridge Gas determined that the Project is needed to supply natural gas to the remaining 1,172 residential customers and two commercial customers.⁵

Table 2 below shows Enbridge Gas' proposed construction schedule for the Project which contemplates that construction will take approximately five months and be completed and tested by December 2019. Enbridge Gas stated that restoration monitoring will be conducted through 2020-2021 to ensure successful environmental mitigation and that a post-construction report will be issued upon completion of the Project as required by the OEB.⁶

Table 2: Enbridge Gas' Proposed Construction Schedule

Receipt of Permits and Approvals	June 2019
Expected LTC approval	July 2019
Commence Construction	July 2019
Completion of Construction	December 2019
Completion of Reinstatement	August 2020
Final Inspection	August 2021

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 Project.

In response to OEB staff interrogatories⁷, Enbridge Gas stated that the minimum number of customers required to achieve a Profitability Index (PI) of 1.00 is 1,174, which is also the total number of customer additions forecast by 2023 per Table 1. Enbridge Gas further stated that it is not aware of any future development plans other than what have already been provided by the developer and that the Project is being built to serve the future customers of Georgian Sands. As with projects of this nature, any potential changes in the Project development planning or circumstances may lead to the forecasted customer additions, as shown in Table 1, not being fully materialized by the end of Phase 4 in 2023. Nevertheless, OEB staff submits that there is still a need for additional natural gas capacity to serve Georgian Sands since the customer

⁵ Response to OEB staff interrogatory # 2(a and g)

⁶ Application, Exhibit D, Tab 1, Schedule 1, p. 1

⁷ Response to OEB staff interrogatory # 2(b, e, f and i)

additions forecasted for Phase 1 could not be supplied by the existing system. Therefore, an infrastructure solution as proposed by Enbridge Gas in this application, is appropriate. OEB staff further submits that Enbridge Gas' response with respect to consideration of looping or implementing DSM measures is satisfactory.

OEB staff requests that Enbridge Gas, in its reply submission, provide a submission on what would happen if, for any reason, the forecasted customer additions shown in Table 1 do not fully materialize by the end of Phase 4, resulting in the Project PI falling below 1.00.

2. Economics and Feasibility

The total estimated cost of the Project is \$2.83 million. The estimated total cost of the Project accounts for pipelines, a district station, various consultations, land rights, contingencies and overheads. Enbridge Gas stated that the Project is a system expansion project and does not require any other additional financing mechanism for the Project to be feasible. The evidence shows a \$1.12 million Customer Contribution in Aid of Construction (CIAC), which Enbridge Gas confirmed is only intended to cover the cost of distribution mains, services and meters. Enbridge Gas further confirmed that no System Expansion Surcharge is required and that the Project is economically feasible with existing rates and CIAC.⁸

Table 3: Enbridge Gas' Total Estimated Project Cost⁹

<u>Item</u>	<u>Project Estimate</u> (dollars)
1.0 Material Cost	277,125
2.0 Labour and Construction Cost	1,698,496
3.0 Internal Costs	115,000
4.0 Consultant Costs	239,480
4.0 Land	16,375
Project Subtotal	2,346,476
5.0 Contingency	469,295
6.0 Interest During Construction	11,766
Total Project Costs	2,827,537

⁸ Response to OEB staff interrogatory # 7

⁹ Application, Exhibit D, Tab 2, Schedule 1, p. 1

Table 3, above shows the total estimated cost of the Project. There is a 20% contingency applied to the Project sub-total. OEB staff asked Enbridge Gas, through interrogatories, to explain the need for a 20% contingency. Enbridge Gas stated that the contingency applied to the Project conforms to its guidelines for a project at this stage of scope, development and risk profile.¹⁰

OEB staff asked Enbridge Gas to explain how the estimates for material, labour and construction and internal costs were determined. Enbridge Gas responded that the estimate for labour and construction costs was provided by the construction contractor that will be installing the pipelines.¹¹ Enbridge Gas stated that it provided preliminary design drawings to the contractor, the contractor visited the site and estimated crew makeup and days of construction. In addition to the contractor's estimate, costs for internal and external construction support were added by Enbridge Gas based on the number of days of construction that will be carried out. The material costs were calculated by using current material costs and referencing the design drawings bill of material.

In response to OEB staff's request¹², Enbridge Gas also provided three comparable projects with their actual total costs, as shown in Table 4 below.

Table 4: Enbridge Gas' Total Cost of Comparable Projects

Project Name	City	Work Year	Pipe Size	Length	Actual Total Costs	Cost Per Meter
Georgian Sands - Reinforcement	Wasaga Beach	2019	8" ST XHP, 6"PE IP	6300	2,827,537	449
Grimsby Reinforcement	Grimsby	2017	6 PE IP GM	3500	1,947,000	556
ERIN IP REINFORCEMENT	ERIN	2019	6" PE IP GM	3040	1,961,371	645
Rockland Reinforcement	Rockland	2018	6" PE IP GM	2306	1,866,176	802

As part of its application, Enbridge Gas stated that there is an additional estimated capital cost of approximately \$2.95 million (in addition to the \$2.83 million Project costs)

¹⁰ Response to OEB staff interrogatory # 6(b)

¹¹ Response to OEB staff interrogatory # 6(a)

¹² Response to OEB staff interrogatory # 6(f)

associated with physically connecting the 1,174 customers (for distribution mains, services, and meters) within Georgian Sands. Enbridge Gas stated that it is not seeking approval for these costs in this application, but confirmed that the \$2.95 million amount has been included in the feasibility analysis and has been provided to ensure completeness.¹³

In accordance with E.B.O. 188 Guidelines¹⁴, Enbridge Gas provided evidence that it used the discounted cash flow (DCF) method in its evaluation of the economic feasibility of the Project. The E.B.O. 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. Enbridge Gas stated that the Project has a PI of 1.00 and in response to interrogatories¹⁵, stated that it has evaluated the Project on the same basis as it would for any other system expansion project consistent with E.B.O. 188 Guidelines. Enbridge Gas stated that it is maintaining its rolling portfolio at a value of 1.00 or greater to adhere to the requirements of the E.B.O. 188 Guidelines, and that all of Enbridge Gas' customers will bear the risk or benefit of an underage or overage in the customer additions forecast associated with the Project.

OEB Staff Submission

OEB staff does not have significant concerns with the economics or feasibility of the Project. However, OEB staff notes that the three comparable projects provided by Enbridge Gas each cost less than \$2 million, and were therefore below the statutory limit that would otherwise have required OEB approval for leave to construct. OEB staff was therefore unable to review the comparator projects to compare their budgeted costs to their actual costs (including use of contingency) to see how they may compare to the Project. OEB staff requests that, in the future, Enbridge Gas provide comparator projects that required OEB approval or, if Enbridge Gas has only examples of projects that do not require OEB approval, more detailed supporting information to ensure comparability.

Overall, OEB staff is satisfied that the total estimated costs of the Project are reasonable given that it appears from the high level information provided in Table 4 that the cost of the Project reflects the economies of scale that would be expected from a larger project with longer pipelines.

¹³ Application, Exhibit E, Tab 1, Schedule 1, p. 2

¹⁴ Final Report of the Board and the Guidelines for Assessing and Reporting on Natural Gas System Expansion in Ontario (E.B.O. 188)

¹⁵ Response to OEB staff interrogatory # 2(c)

OEB staff reviewed the contingency included in the Project costs and in OEB staff's view, it is reasonable to expect the level of contingency to be higher the less developed the planning is. OEB staff would expect the contingency to decline as the detailed planning advances. It is OEB staff's understanding that the Project is still in an early stage of development, and so, the level of contingency appears to be appropriate. However, in OEB staff's view, applicants should not be filing applications with the OEB for leave to construct at an early stage if they require a significant contingency level. Nevertheless, Enbridge Gas is reminded that Condition 7 states that:

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.

This reporting requirement will allow the OEB to examine the extent to which the contingency for the Project has been utilized before the Project is included in rate base.

As noted in the section above, Enbridge Gas stated that 1,174 new customer connections are required to meet the PI of 1.00 for the Project. In OEB staff's view, Condition 6, outlined in Appendix A, will ensure that the OEB is notified of any significant changes to the customer forecast.

3. Routing and Environmental Matters

Enbridge Gas states that it retained Stantec Consulting Ltd. (Stantec), an independent environmental consultant, to undertake an environmental study for the Project and that one route (i.e. the preferred route) was identified as the only feasible route for the Project. 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). Enbridge Gas confirmed that the ER conforms to the OEB's Environmental Guidelines¹⁶.

¹⁶ *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario* (7th Edition), 2016

Enbridge Gas' evidence shows that the preferred route would start within the Township of Springwater at Flos Road 4 West and Vigo Road, and terminate at the planned Georgian Sands subdivision at Flos Road 8 West and Rylan Road at the Town of Wasaga Beach boundary. Enbridge Gas states that the preferred route will be approximately 6.4 kilometers long and located entirely within the municipal road allowance.¹⁷

Enbridge Gas further stated that with all environmental and technical constraints in mind, it did not consider any other alternative solutions as the Project was the shortest, most direct route and that any other alternative route would increase the overall length of the pipeline and the overall cost of the Project. Enbridge Gas' evidence shows that a route following the road allowance of Atkinson Road, would result in additional turns, and a less direct and longer route.

Enbridge Gas states that its ER was submitted to the Ontario Pipeline Coordination Committee (OPCC) on December 4, 2018 and that no concerns were received from the OPCC.

Enbridge Gas states that a Stage 1 Archaeological Assessment (AA) was submitted to the Ministry of Tourism, Culture and Sport (MTCS) on October 17, 2018. In response to OEB staff interrogatories, Enbridge Gas stated that on March 25, 2019 the Stage 1 AA, which had been submitted to the MTCS as a condition of licensing in accordance with Part VI of the *Ontario Heritage Act*, R.S.O. 1990, c.0.18, was entered into the *Ontario Public Register of Archaeological Reports* without technical review. As identified in the Stage 1 AA, a Stage 2 AA is required. Enbridge Gas stated that it expects the field portion of the Stage 2 AA to begin in late May 2019 and that it intends to submit the Stage 2 AA once field work has concluded and a report has been drafted by a licensed archaeologist. Enbridge Gas stated that it anticipates receiving approval from the MTCS before August 2019, as this is the anticipated construction start date.¹⁸

Enbridge Gas also stated that a consultation program was implemented to receive input from federal and provincial agencies, conservation authorities, municipal personnel and elected officials, Indigenous communities, special interest groups, and residents and businesses within 500 meters of the preferred route. Enbridge Gas stated that no issues were identified during the consultation program.¹⁹

¹⁷ Application, Exhibit C, Tab 1, Schedule 1, p. 1

¹⁸ Response to OEB staff interrogatory # 5(a, b, c and d)

¹⁹ Application, Exhibit C, Tab 1, Schedule 1, pp. 1-3

OEB Staff Submission

OEB staff has no concerns with the preferred route, route selection methodology, or environmental aspects of the Project. The only point that OEB staff takes issue with is the fact that Enbridge Gas has not sought leave of the OEB for the construction of the distribution system within the Georgian Sands subdivision and that its ER does not include environmental assessment for the distribution systems within the new subdivision.

In its submission in the Southern Bruce leave to construct proceeding (Southern Bruce)²⁰, Enbridge Gas argued that EPCOR Natural Gas Limited Partnership (EPCOR) should have obtained leave to construct approval from the OEB for its proposed distribution system and took issue with the fact that the distribution systems were not included in EPCOR's ER.²¹ In its submission in Southern Bruce, OEB staff submitted that section 90 of the OEB Act does not make a distinction between types of "hydrocarbon lines".²² OEB staff is of the view that this issue also applies to this proceeding since the total estimated cost of the Project is more than \$2 million. However, similar to Southern Bruce, OEB staff does not believe that its interpretation of what exactly requires leave to construct raises any issues, since parties to the proceeding have been able to examine the entire costs of the Project.

OEB staff is of the view that Enbridge Gas should have a consistent approach to projects for which it seeks the OEB's leave to construct. OEB staff submits that Enbridge Gas should have sought OEB approval for the distribution systems within Georgian Sands and that its ER should have included such areas.

OEB staff is of the view that the fact that the ER does not cover the distribution system within Georgian Sands is a material issue. As submitted by OEB staff in Southern Bruce²³, in order to allow for the timely commencement of construction of the Project, in respect of which OEB staff has no environmental concerns, OEB staff is proposing that this issue be addressed through an additional condition as follows:

²⁰ EB-2018-0263

²¹ Enbridge's submission in EPCOR's Southern Bruce leave to construct proceeding, EB-2018-0263, June 3, 2019, sections B and C, para. 8-21

²² OEB staff submission in EPCOR's Southern Bruce leave to construct proceeding, EB-2018-0263, June 3, 2019, p.7

²³ Revision to OEB staff submission in EPCOR's Southern Bruce leave to construct proceeding, EB-2018-0263, June 6, 2019

Enbridge Gas is required to update its ER to include the components of the Project that are not currently covered by the ER. Enbridge Gas may not commence construction on the elements of the Project that are not covered by the current ER until the updated ER has been filed with the OEB and the OEB is satisfied there are no material concerns.

OEB staff notes that this condition was not included in the OEB staff interrogatory on the draft Conditions of Approval. This condition has been added in Appendix A as Condition 4. OEB staff submits that the Conditions of Approval should also include a requirement for obtaining a clearance letter from the MTCS, as it was not included in the application, nor was it provided as part of Enbridge Gas' interrogatory responses. OEB staff notes that this condition was not included in the OEB staff interrogatory on the draft Conditions of Approval. This condition has been added in Appendix A as Condition 5.

4. Indigenous Consultation

Pursuant to a letter from the Ministry of Energy, Northern Development and Mines (MENDM), Indigenous Energy Policy, dated September 10, 2018, Enbridge Gas was delegated the procedural aspects of the Crown's duty to consult for the Project. The September 10, 2018 letter identified six communities²⁴ to be consulted. On June 20, 2019, Enbridge Gas updated its evidence and filed MENDM's Indigenous consultation sufficiency letter dated June 19, 2019, stating that the MENDM is of the opinion that the procedural aspects of consultation undertaken by Enbridge Gas for the Project were satisfactory.

As part of its application, Enbridge Gas has filed a summary of Enbridge Gas' Indigenous consultation activities for the Project²⁵, as well as its Indigenous consultation matrix (and associated attachments)²⁶ for the Project. Enbridge Gas stated that it aligns its interests with those of Indigenous communities through meaningful, direct Indigenous economic activity in projects corresponding to community capacity and project needs, where possible and that it will continue to engage with the identified Indigenous communities during the regulatory process and throughout the life of the Project.²⁷

²⁴ Beausoleil First Nation, Chippewas of Mnjikaning First Nation (Chippewas of Rama), Chippewas of Georgina Island First Nation, Huron Wendat, MNO Moon River Métis Council and MNO Georgian Bay Métis Council

²⁵ Application, Exhibit G, Tab 1, Schedule 2, pp. 1-18

²⁶ Application, Exhibit G, Tab 1, Schedule 3, pp. 1-13, plus attachments

²⁷ Application, Exhibit G, Tab 1, Schedule 1, pp. 1-5

No party other than Enbridge Gas has filed any evidence in relation to the duty to consult. Further, none of the Indigenous groups that have been engaged by Enbridge Gas have intervened or otherwise directly participated in this proceeding.

Anwaatin – an Indigenous business corporation – intervened in this proceeding. Anwaatin, in its notice of intervention, described its mission as ensuring that Indigenous communities are afforded reliable and affordable energy and have a central role in energy-related climate change action. Anwaatin also indicated that it hoped to provide the OEB with a unique perspective regarding Indigenous communities currently living in energy poverty in Ontario and to provide stakeholder views on the differential impact of natural gas franchises and related matters on remote and near-remote communities.

Anwaatin was approved as an intervenor in this proceeding. Anwaatin filed interrogatories relating to Enbridge Gas' consideration of alternative routes, including the impacts on Indigenous rights and interests, the impacts of the Project on the provision and cost of natural gas to Indigenous communities and off-reserve members, Enbridge Gas' approach to the duty to consult the First Nation and Métis communities affected by the Project and Enbridge Gas' plans, if any, to enter into an agreement (or similar) with First Nation or Métis communities. Anwaatin did not file any evidence, nor did it request an opportunity to do so.

Enbridge Gas confirmed in its interrogatory responses that no refinements to the Project or recommended mitigation or protective measures were necessary as a result of the input from Indigenous communities.²⁸

OEB Staff Submission

In OEB staff's view, Enbridge Gas appears to have made adequate efforts to engage with affected Indigenous groups and no concerns that could materially affect the Project have been raised through its consultation. In addition, OEB staff notes that MENDM was of the opinion that the procedural aspects of consultation undertaken by Enbridge Gas for the Project to date were satisfactory.²⁹

As noted above, none of the Indigenous groups identified by MENDM intervened or otherwise directly participated in the proceeding. OEB staff is not aware of any concerns

²⁸ Response to Anwaatin interrogatory # 2

²⁹ Application, Exhibit G, Tab 1, Schedule 1, Attachment 3, p. 1, Indigenous Consultation Sufficiency Letter from MENDM, June 19, 2019

that the duty to consult has not been adequately discharged, and there is no evidence on the record of this proceeding that points to concerns in this regard.

Based on the above, OEB staff submits that the procedural aspects of the duty to consult have been sufficiently discharged for the Project.

5. Land Matters

As stated above, Enbridge Gas confirmed that the preferred route is entirely located within the municipal right of way, but that there are four residential properties where the road allowance is forced, and as a result, the proposed route may require a bylaw or easement where municipal road allowances are not dedicated. Enbridge Gas stated that it is required to obtain road occupancy permits from the Township of Springwater and Township of Wasaga Beach.³⁰

Enbridge Gas stated that the Township of Springwater advised that under the *Municipal Act*, it has authority through Municipal Consent to grant Enbridge Gas the required permission to construct the facilities in the forced road allowance that is on residential properties³¹ and that Enbridge Gas' permit from the Township of Wasaga is pending approval.³² Enbridge Gas stated that it may need temporary working area agreements and if it is determined that the four sections of the road are privately owned, easements will be obtained accordingly.

Enbridge Gas also stated that the forms of land agreement it has requested approval for have been previously approved by the OEB.³³

OEB Staff Submission

With respect to the forced road allowances, OEB staff has no preference as to whether a Municipal Consent is made or easements from property owners are obtained in order to locate the Project on those lands. OEB staff notes that Enbridge Gas is required to obtain all necessary authorizations to construct the Project, and that Condition 7 requires it to provide evidence that it has done so in a post construction report filed with the OEB.

³⁰ Application, Exhibit F, Tab 1, Schedule 1, p. 1

³¹ Response to OEB staff interrogatory # 8(a and b)

³² Response to OEB staff interrogatory 9(a)

³³ Response to OEB staff interrogatory # 8(d)

OEB staff has no concerns with the permanent or temporary land use agreements and submits that the proposed forms of land agreement should be approved as they are consistent with the form of agreement previously approved by the OEB.

6. Municipal Franchise Agreements and Certificates

In response to interrogatories³⁴, Enbridge Gas confirmed that it has a Municipal Franchise Agreement with County of Simcoe³⁵ and that it has certificates of public convenience and necessity³⁶ for geographic areas covering the Township of Springwater and Towns of Wasaga Beach.

OEB Staff Submission

Section 8 of the *Municipal Franchises Act, 1990* requires persons constructing any works to supply natural gas to have the approval of the OEB in the form of a certificate, which provides the authorization to construct works within the specified geographic area.

Since Enbridge Gas has confirmed that it has a Municipal Franchise Agreement with the County of Simcoe and certificates of public convenience and necessity for geographic areas covering the Township of Springwater and Towns of Wasaga Beach within the County of Simcoe, OEB staff has no concerns with these matters.

7. Conditions of Approval

With the exception of OEB staff's proposal to amend Conditions 4 and 5, Enbridge Gas has reviewed and agreed to the OEB's Conditions of Approval for leave to construct projects (attached as Appendix A).³⁷

³⁴ Response to OEB staff interrogatory # 1(a and b)

³⁵ The reference number for the applicable Municipal Franchise Agreements (County of Simcoe) is RP-2002-0104/EB-2002-0219, approved by the OEB on April 25, 2003.

³⁶ The reference number for the applicable certificate(s) of public convenience and necessity are EB-2017-0342 for Township of Springwater, approved by the OEB on May 24th, 2018 and E.B.C. 190 for Towns of Wasaga Beach, approved by the OEB on November 3rd, 1989.

³⁷ Response to OEB staff interrogatory # 11

OEB Staff Submission

Section 23 of the OEB Act permits the OEB, when making an order, to “impose such conditions as it considers proper”. OEB staff submits that the OEB should approve Enbridge Gas’ Project subject to the Conditions of Approval attached as Appendix A to this submission, which includes a requirement to update the ER to include the components of the Project that are not currently covered by the ER.

OEB staff submits that the Conditions of Approval should also include a requirement for obtaining a clearance letter from the MTCS, as it was not included in the application, nor was it provided as part of Enbridge Gas’ interrogatory responses. OEB staff notes that this condition was not included in the OEB staff interrogatory on the draft Conditions of Approval. This condition has been added in Appendix A as Condition 5.

All of which is respectfully submitted.

Appendix A

Leave to Construct Conditions of Approval

Enbridge Gas Inc.

EB-2018-0226

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-2018-0226 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 for the following:
 - i. The commencement of construction, at least ten days prior to the date construction commences
 - ii. The planned in-service date, at least ten days prior to the date the facilities go into service
 - iii. The date on which construction was completed, no later than ten days following the completion of construction
 - iv. The in-service date, no later than ten days after the facilities go into service
3. Enbridge Gas shall implement all the recommendations of the Environmental Protection Plan and Environmental Report filed in EB-2018-0226, and all the recommendations and directives identified by the Ontario Pipeline Coordinating Committee review.
4. Enbridge Gas is required to update its Environmental Report to include the components of the Project that are not currently covered by the Environmental Report. Enbridge Gas may not commence construction on the elements of the Project that are not covered by the current Environmental Report until the updated Environmental Report has been filed with the OEB and the OEB is satisfied there are no material concerns.
5. Authorization for leave to construct is granted conditional of Enbridge Gas filing with the OEB a final version of the Environmental Protection Plan and a clearance letter from the Ministry of Tourism, Culture and Sport for the Project.

6. Enbridge Gas shall advise the OEB of any proposed change in the project, including but not limited to changes in: OEB-approved construction or restoration procedures, the proposed route, construction schedule and cost, the necessary environmental assessment approvals, and all other approvals, permits, licences, certificates and rights required to construct the proposed facilities. 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.
7. Concurrent with the final monitoring report referred to in Condition 8(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.
8. 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
 - 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 E'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
 - 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.
9. Enbridge Gas shall designate one of its employees as project manager who will be responsible for the fulfillment of these conditions, shall provide the employee's name and contact information to the OEB and to all the appropriate landowners, and shall clearly post the project manager's contact information in a prominent place at the construction site.

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