



Stephanie Allman
Regulatory Coordinator

tel 416-495-5499
fax 416-495-6072
EGIRegulatoryProceedings@enbridge.com

Enbridge Gas Inc.
500 Consumers Road
North York, Ontario M2J 1P8
Canada

July 9, 2019

VIA EMAIL and COURIER

Ms. Kirsten Walli
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Enbridge Gas Inc.
Ontario Energy Board File: EB-2018-0226
Georgian Sands Pipeline Project – Reply Argument**

Pursuant to the Board's Procedural Order No. 2 dated June 18, 2019, enclosed please find Enbridge Gas Inc.'s Reply Argument in the above noted proceeding.

This submission was filed through the Board's Regulatory Electronic Submission System.

Please contact the undersigned if you have any questions.

Yours truly,

(Original Signed)

Stephanie Allman
Regulatory Coordinator

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*,
S.O. 1998, c. 15, (Schedule B) (the “Act”);

AND IN THE MATTER OF an Application by Enbridge
Gas Inc., pursuant to Section 90 of the *Ontario Energy Board Act*, for an
order granting leave to construct a NPS 8 and NPS 6 natural gas
distribution pipeline and ancillary facilities to service the Georgian Sands
planned subdivision in Simcoe County.

REPLY SUBMISSIONS OF ENBRIDGE GAS INC.

INTRODUCTION:

1. In this proceeding Enbridge Gas Inc. (Enbridge) applied for the following:
 - (i) an order under section 90 of the Act granting leave to construct a natural gas pipeline and district station in order to provide gas service to the Georgian Sands planned subdivision in the County of Simcoe.
 - (ii) an order under section 97 of the Act approving Enbridge’s form of Easement Agreements.
2. Enbridge is seeking leave to construct 8 meters of nominal pipe size (NPS) 8 extra high pressure natural gas pipeline and approximately 6.4 km of NPS 6 of intermediate natural gas pipeline along with a district station in Simcoe County (the “Project”). As set out in pre-filed evidence, the Project is needed in order to serve the new residential and commercial customers in the Georgian Sands planned subdivision. The Project will allow Enbridge to bring gas to 1174 customers.
3. Submissions were received from Board Staff and Anwaatin Inc. (“Anwaatin”). The issues raised by the parties are addressed below.

BOARD STAFF:

4. Overall Board Staff supports the Project and expressed no concerns with Enbridge’s application in the following areas:
 - (a) Board Staff agrees that there is a need for the Project;

- (b) Board Staff is satisfied that the total estimated costs of the Project are reasonable and do not have significant concerns with the economics or feasibility of the Project;
 - (c) Board Staff has no concerns with the route, route selection methodology, or environmental aspects of the project; and
 - (d) Board Staff and the Ministry of Energy, Northern Development and Mines, found that Enbridge sufficiently discharged the procedural aspects of the duty to consult for the project.
5. The only concern raised by the Board Staff is that Enbridge should have applied for leave to construct for the distribution systems within Georgian Sands and that its Environmental Report (ER) should have included these areas.
6. For clarification, Enbridge considers the proposed distribution system within the Georgian Sands subdivision to consist of two main categories of plant – a Backbone Mainline and Customer Connection Lines. The Backbone Mainline is a higher pressure natural gas main distribution pipeline that feeds a series of Customer Connection Lines that are smaller diameter, low pressure service lines that bring natural gas from the Backbone Mainline directly to end-use customers. The Backbone Mainline is located in the municipal roadway pursuant to Enbridge’s rights in the Model Franchise Agreement. Customer Connection Lines are the lateral lines that extend from the Backbone Mainline and feed directly into the natural gas meter at the customer property. Board Staff submitted that Enbridge should have sought leave to construct approval for the Customer Connection Lines within Georgian Sands and that its ER should have included areas in which these Customer Connection Lines are planned over the next several years. OEB staff is proposing that this issue be addressed through an additional condition as follows:
- 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.¹
7. OEB Staff also submits that the Conditions of Approval should include a requirement for obtaining a clearance letter from the MTCS. Enbridge will file a clearance letter from the MTCS upon receipt.
8. In Enbridge’s view, leave to construct is not required for Customer Connection Lines as defined above. The Georgian Sands project is a system expansion in which Enbridge is expanding its existing gas network in order to connect customers as part

¹ EB-2018-0226 – OEB Staff Submission, June 27, 2019, page 11

of a new planned subdivision. In previous leave to construct applications, Enbridge Gas Distribution has not been required to apply for leave to construct or obtain an ER for Customer Connection Lines. Traditionally, Enbridge has included other facilities such as Customer Connections Lines and regulator stations as part of its economic feasibility analysis in leave to construct applications. Four examples are described below.

9. In EB-2016-0054 (Seaton Lands Development), the North Pickering Community Management requested natural gas services for the Seaton community. Enbridge Gas Distribution applied to the OEB for leave to construct approximately 0.5 km of NPS 6 steel pipeline and approximately 2.9 km of NPS 8 steel pipeline plus ancillary facilities (a district regulator station) to provide natural gas service to the Seaton Community in North Pickering. Similar to the Georgian Sands project, the Seaton project included the extension of the natural gas network from existing facilities in order to supply gas to the Seaton community. The Seaton project is part of a phased development where 10,936 customers are being added from 2017 to 2023. The project cost was approximately \$4 million. Enbridge Gas Distribution included as part of the economic feasibility analysis the Customer Connection Lines and district stations to be added to support the future Seaton community development. Enbridge Gas Distribution did not seek leave for the Customer Connection Lines that were built and the approximately 5000 customers that were added from 2017 to 2019. The OEB granted Enbridge leave to construct the facilities as described in the application.²
10. In EB 2017-0261 (Scugog Island System Expansion), Enbridge applied to the OEB for leave to construct approximately 7 km of NPS 4 extra-high pressure steel natural gas pipeline to serve the community of Scugog Island. The project included the construction of district stations and the Backbone Mainline at an upfront cost of approximately \$3.4 million. Similar to the Georgian Sands project, customers will be added in phases from 2020-2029. As part of the application, Enbridge's economic feasibility analysis illustrated approximately \$4 million of Customer Connection Lines to be added from 2020-2029. Enbridge did not seek leave for the Customer Connection Lines, nor did it file an ER for the Customer Connection Lines. The OEB granted Enbridge leave to construct the facilities as described in the application.³
11. In EB-2017-0147, Enbridge applied for leave to construct 37 km of pipeline to serve the community of Fenelon Falls. Enbridge was granted leave to construct 8 kilometres of 6 inch diameter pipeline and 29 kilometres of 6 inch and 4 inch diameter pipelines as described in its application. This project included the construction of transmission mains and the Backbone Main at a cost of \$23 million. Enbridge also filed as part of its economic feasibility analysis the cost of

² EB-2016-0054 – Decision and Order dated June 23, 2016

³ EB-2017-0261 Decision and Order dated May 31, 2018

future Customer Connection Lines at approximately \$11.7 million that would be added in phases over a ten year period. Enbridge did not seek leave for the Customer Connection Lines or an ER.⁴

12. In EB-2018-0096 (Liberty Village), Enbridge applied for leave to construct 1.2 km of pipeline in the City of Toronto. The Liberty Village project consisted of the construction of a 900 meter NPS 8 inch pipeline and a second section of 200 meters of NPS 6 pipeline. The proposed Backbone Mainline was needed to provide gas service to 7 new condominiums and mixed use towers in the City of Toronto. The estimated cost of the project is \$3.6 million. As part of the economic feasibility analysis, Enbridge illustrated the cost of the district stations and Customer Connection Lines to cost \$238,054. The OEB approved the leave to construct application and did not require an ER for the Customer Connection Lines.⁵
13. Board Staff reference Enbridge's submission in EB-2018-0263 regarding EPCOR's leave to construct application and suggested that Enbridge's position in that proceeding may not be consistent with its application in this proceeding. Specifically, OEB Staff submitted Enbridge should have applied for leave for the Customer Connection Lines and the Customer Connection Lines should have been included in the ER. Enbridge submits that its position is not inconsistent as EPCOR's definition of Backbone Mainlines and Customer Connection Lines are not the same as Enbridge's definition above.
14. In EB-2018-0263 EPCOR's Customer Connection Lines, include natural gas distribution mains which or located on the Municipal roadway. In its application, EPCOR applied for leave to construct approximately 75 km of NPS 8 to 6-inch steel high pressure pipe, 45 km of NPS 6-inch medium density polyethylene (MDPE) pipe and 178 km of NPS 4 and 2 MDPE distribution piping in the Municipality of Arran-Elderslie, the Municipality of Kincardine and the Township of Huron-Kinloss⁶. According to EPCOR, these pipelines will be the backbone for service to multiple communities throughout Southern Bruce and natural gas service will be provided to a maximized number of customer connections including residential, commercial, agricultural and industrial customers⁷. The 178 km of NPS 4 and 2 MDPE piping was described by EPCOR as required to network the system to provide service to all the communities identified⁸. Enbridge considers this description as equivalent to what we consider the Backbone Mainline system described earlier in this submission.

⁴ EB-2017-0147 Decision and Order dated March 1, 2018

⁵ EB-2018-0096 – Decision and Order dated September 27, 2018

⁶ EB-2018-0263 – Application, page 2

⁷ EB-2018-0263 – Application, page 3

⁸ EB-2018-0263 – Application, page 5

15. In response to Board Staff IR #1(b) in its EB-2018-0263 proceeding, EPCOR states that it is not seeking leave to construct the 178 km of NPS 2 and 4-inch polyethylene pipeline that will be used to provide gas distribution services within the Southern Bruce Municipalities. Enbridge's submissions in the EB-2018-0263 proceeding were that EPCOR should be required to obtain leave to construct for its 178 km of distribution system. In its reply submissions⁹, EPCOR started referring to its 178 km distribution system as "customer connection lines" but Enbridge submits that EPCOR's 178 km distribution system is part of what Enbridge considers the Backbone Mainline of the system.
16. Enbridge also notes that the nature of EPCOR's leave to construct is entirely different than the Georgian Sands Project. EPCOR is constructing an entirely greenfield system in a region that has never received gas before. The scale of the EPCOR project is significantly different as EPCOR is constructing 298 km of pipeline. EPCOR has recognized the uniqueness of its application to the OEB:

EPCOR does not believe EPCOR requires Board approval for the Customer Connection Lines. However, EPCOR recognizes the uniqueness of this LTC application (i.e., expansion through the construction of an entirely greenfield system into a previously un-serviced region), and if the Board were to find that the Customer Connection Lines do require Board approval, EPCOR requests that the matter be dealt with by way of a condition to any LTC approval granted (but that any such condition not delay construction of the Facilities).¹⁰

17. In this Georgian Sands Project, the Customer Connection Lines are being added in four distinct phases, with phase 1 commencing in 2020 and ending with phase 4 in 2023. In each phase, the construction of these lines would not trigger the statutory criteria for a leave to construct application as the pipelines are too small. Additionally, in this Project, the total cost of the Customer Connection Lines over 4 years is approximately \$1.2 million which is under the statutory threshold to trigger a leave to construct under section 90 of the Act. The Customer Connection Lines are individual projects and unlike the Backbone Mainline, they are not constructed all at once. In other words, the utility builds the Customer Connection Lines as the development is being constructed. If a development phase were unable to proceed, Enbridge wouldn't build the Customer Connections Lines.
18. As mentioned above, in previous leave to construct projects the ERs have only been required for Backbone Mainlines. The OEB Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Lines and Facilities in Ontario (the "Environmental Guidelines") inform applicants of the scope of activities to consider before a pipeline is built such as route selection, site selection, public

⁹ EB-2018-0263 – EPCOR Reply Submissions, June 10, 2019, page 3

¹⁰ EB-2018-0263 – EPCOR Reply Submissions, June 10, 2019, page 4

consultation and mitigation measures for environmental sensitive areas. These issues that require consideration in the ER for the Backbone Mainline do not arise for what Enbridge considers the Customer Connection Lines. The Customer Connection Lines are smaller, lower pressure, there is typically only one route available to service a customer, and the customer's land is likely previously disturbed to allow for the installation of other utilities. To require a full ER for the Customer Connection Lines is an unnecessary regulatory process as these lines do not require leave to construct.

19. Finally, the construction of the smaller Customer Connection Lines is governed by the process and rights in the Certificates of Public Convenience and Necessity (CPCN) and the Municipal Franchise Agreement (MFA). In other words, once the Backbone Mainline is constructed, the processes in the CPCN and MFA are sufficient to allow the construction of the Customer Connection Lines since they are often completed in a phased approach.
20. With respect to Board Staff's question regarding what would happen if, for any reason, the forecasted customer additions do not fully materialize by the end of Phase 4, resulting in the Project PI falling below 1.00¹¹, Enbridge submits that, as with any other system expansion project, all of Enbridge's customers bear the risk or benefit of an underage or overage in the customer additions forecast associated with the Project. Enbridge's approach to attaching new business continues to be consistent with the principles identified in the EBO 188 Report. Enbridge engages in system expansion where it is economic to do so using the portfolio approach accepted by the OEB. This approach ensures that the cost of the new business portfolio for the year will not create an undue burden on existing customers. It is also important to remember that a system expansion project that results in a PI greater than 1.0 means that by the end of the entire project life total revenues exceed total costs to the benefit of all customers. Enbridge will continue to require individual projects to achieve a minimum threshold profitability index of 0.8, while maintaining a rolling profitability index of at least 1.0 for the entire distribution portfolio.

ANWAATIN:

21. Anwaatin submits that Board must ensure that Enbridge, as the party seeking leave to construct the Project, and the Crown have discharged their duty to consult prior to the commencement of construction. Further, consultation should include discussion of any relevant treaty rights and interests relating to affected First Nations territory.
22. Enbridge submits that meaningful consultation and accommodation, as required, in relation to the Project has occurred with the Indigenous that were identified by the Ministry of Energy Northern Development and Mines (MENDM) and is sufficient for

¹¹ EB-2018-0226 – OEB Staff Submissions, page 5

the Board to approve the Project without any additional conditions as suggested by Anwaatin. It is important to note that Anwaatin has not stated which, if any, of those Indigenous groups' interests it represents.

23. Pursuant to a letter from the MENDM, Indigenous Energy Policy, dated September 10, 2018, Enbridge was delegated the procedural aspects of the Crown's duty to consult for the Project¹². The September 10, 2018 letter identified six communities to be consulted. None of the Indigenous groups that were identified by the MENDM filed any evidence with respect to the duty to consult or have raised any concerns that consultation has not been adequate. None of the communities that have been consulted by Enbridge have directly participated in the proceeding. In its updated evidence, Enbridge filed MENDM's Indigenous consultation sufficiency letter dated June 19, 2019, that state the MENDM's opinion that the procedural aspects of consultation undertaken by Enbridge for the Project were satisfactory¹³.
24. Enbridge has followed the Environmental Guidelines in its Indigenous consultation on the Project. As Board Staff notes, Enbridge has satisfied the procedural aspects of the duty to consult as concluded by the Ministry responsible for determining sufficiency for leave to construct projects (MENDM). As required by the MENDM and in accordance with its standard practices, Enbridge will continue its consultation activities with the affected Indigenous communities throughout the life of the Project.
25. Anwaatin submits that the Board should assess and ensure the adequacy of Enbridge's services for its First Nations customers as part of an overall need to address energy poverty in First Nations communities. While Enbridge agrees that the energy needs of First Nations communities must be addressed in the context of system expansion, this issue is not relevant to this application for system expansion to a specific subdivision in Simcoe County.
26. Anwaatin submits that the Project should reflect the Indigenous rights and processes set out in specific elements of the Official Plan of Simcoe County. Enbridge submits that questions related to the Official Plan are not relevant to the determinations to be made in this proceeding.
27. With respect to the relief requested by Anwaatin in paragraph 13 of its submission, Enbridge responds as follows:
 - (a) As discussed above, Enbridge has adequately consulted with Indigenous communities;

¹² EB-2018-0226 - Exhibit G, Tab 1, Schedule 1, Attachment 2

¹³ EB-2018-0226 - Exhibit G, Tab 1, Schedule 1, Attachment 3

- (b) As discussed above, Enbridge has fully executed the procedural duty of consultation delegated by the Crown, as demonstrated by the MENDM's Indigenous consultation sufficiency letter dated June 19, 2019;
- (c) No Indigenous groups who may be potentially impacted by the Project have raised concerns about the adequacy of consultation to date or about Enbridge's commitment to consult throughout the lifecycle of the Project so conditions setting out specific information requirements during construction and for maintenance work not necessary;
- (d) Enbridge offers monitoring opportunities to Indigenous groups who express an interest, taking into account archaeological potential and concerns. No Indigenous groups who may be potentially impacted by the Project have raised concerns about a lack of opportunity for monitoring so there is no need for such a broad condition;
- (e) Enbridge works with Indigenous communities to identify their interests in monitoring and permit and approval reviews and provides capacity funding, as needed. No Indigenous groups who may be potentially impacted by the Project have raised concerns about capacity funding from Enbridge so there is no need for such a broad condition;
- (f) Enbridge has adequate insurance to conduct the Project and operate its business in the normal course.
- (g) There are two First Nation communities in close proximity to the project and both communities already have distribution services provided by Enbridge. Additionally, the energy needs of First Nations communities are outside the scope of this leave to construct application.

SUMMARY:

28. Enbridge submits that the proposed Project is in the public interest and that there are no outstanding issues. Therefore, Enbridge requests the Board grant leave to construct for the Project at the earliest opportunity such that Enbridge may maintain the proposed construction schedule to meet the customer's in-service date.