



DECISION AND ORDER

EB-2019-0139

ENBRIDGE GAS INC.

**Application for System Expansion Surcharge – Chippewas of the
Thames First Nation**

BEFORE: **Susan Frank**
 Presiding Member

Robert Dodds
 Member

Cathy Spoel
 Member

August 1, 2019

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1 INTRODUCTION

On April 24, 2019, Enbridge Gas Inc. (Enbridge Gas)¹ applied to the Ontario Energy Board (OEB) under section 36 of the *Ontario Energy Board Act, 1998* (OEB Act) for an order or orders approving a System Expansion Surcharge (SES) rate for the Chippewas of the Thames First Nation (COTTFN) community. More particularly, Enbridge Gas is seeking approval to extend to the COTTFN community the SES that was approved by the OEB in Union Gas' 2015 Community Expansion Project (2015 Project)². Enbridge Gas currently serves a portion of the COTTFN community, and approval of the SES will support the economic feasibility of an additional five kilometres of plastic pipeline (a mix of 4-inch and 2-inch diameters) along an additional five roads in the COTTFN community (Project).

Enbridge Gas holds the OEB-issued certificates of public convenience and necessity and Municipal Franchise Agreements required for the Project.

Enbridge Gas is not seeking leave of the OEB to construct the Project because it does not trigger any of the legislated length, diameter, pressure or capital cost thresholds³.

Enbridge Gas filed in evidence a letter from the Technical Standards and Safety Authority (TSSA) indicating that the TSSA has no issues with the design of the Project⁴.

Enbridge Gas has obtained a "Section 28 (2) Permit"⁵ from Indigenous and Northern Affairs Canada to extend its pipelines on the COTTFN reserve.

In a letter dated January 28, 2019, the Ministry of Energy, Northern Development and Mines indicated that Enbridge Gas' Indigenous consultation activities with respect to the Project are satisfactory⁶.

Enbridge Gas has received support from the COTTFN in the form of a Band Council Resolution⁷.

¹ In January 2019, following the OEB's decision in EB-2017-0306 / EB-2017-0307, Union Gas Limited and Enbridge Gas Distribution Inc. amalgamated to become Enbridge Gas Inc.

² EB-2015-0179; construction of the 2015 Project is complete and customers are currently paying the OEB approved SES

³ OEB Act, s. 90(1)

⁴ Application, Schedule 12

⁵ In accordance with the Indian Act, a Section 28(2) Permit grants non-exclusive license to occupy a portion of reserve land for the purposes of providing utility services to the reserve.

⁶ Application, Schedule 12

⁷ Application, Schedule 3

Construction of the Project is scheduled to begin in September 2019 with an in-service date of November 2019. Enbridge requested a decision from the OEB in August 2019.

A map showing the location of the Project is provided in Appendix A.

2 THE PROCESS

The OEB issued a notice of hearing for the application on May 29, 2019. The letter of direction required that the notice be served directly on all potential customers that are expected to take service from the proposed facilities. The intervention period ended on July 15, 2019. No one applied for intervenor status.

On July 19, 2019, OEB staff filed a letter with the OEB stating that it had reviewed the application and has no issues that require interrogatories or submissions. OEB staff has no concerns with the OEB granting Enbridge Gas' section 36 request.

The OEB is disposing of this proceeding without additional process on the basis that no person requested a hearing within a reasonable time set by the OEB after the OEB gave notice of the right to request a hearing⁸.

⁸ OEB Act, s. 21(4)(i)

3 LEGISLATIVE MANDATE AND TEST

This application involves a request for a rate order under section 36 of the OEB Act. Section 36 of the OEB Act provides that the OEB shall make a rate order if the OEB finds that the rate is just and reasonable. The OEB reviews the information and proposals in a rate application in order to determine whether the proposals are reasonable for both consumers and the utility. In determining whether Enbridge Gas' proposal is just and reasonable in this case, the OEB examined the need for and nature of the proposed rate. Each of these issues is addressed below.

4 NEED FOR THE PROPOSED RATE

Based on information received from a customer survey as well as discussions with the COTTFFN Band Council, Enbridge Gas is forecasting a total of 57 customers by the end of its ten year forecast. This includes 34 Band Council owned buildings (including two small commercial properties) and 23 additional residential properties. The Project is sized to meet the ten year forecasted customer attachments.

The estimated capital cost of the Project is approximately \$1.86 million. Enbridge Gas provided evidence that the Project is not feasible based solely on the use of its existing OEB approved rates. Enbridge provided a discounted cash flow analysis of the Project that shows that a Profitability Index of 1.0 can be achieved with the following.

- a) The SES that was approved by the OEB in Union Gas' 2015 Project
- b) Ontario's Access to Natural Gas Act program funding of \$1.43 million
- c) Municipal⁹ support in the form of Payments in Lieu of Taxes of \$4,784 per year for ten years

Findings

The use of a SES will allow customers in the COTTFFN community to satisfy the required profitability to allow the project to proceed, just as in the following communities:

- Kettle and Stony Point First Nation and Lambton Shores
- Milverton, Rostock and Warburg
- Prince Township
- Delaware Nation of Moraviantown First Nation
- Fenelon Falls
- Scugog Island

The OEB finds that the proposed rate is needed to bring natural gas service to an underserved community.

⁹ Municipality of Strathroy-Caradoc

5 NATURE OF THE PROPOSED RATE

Enbridge Gas is seeking approval to extend to the COTTFN community the SES that was approved by the OEB in recent community expansions including Union Gas' 2015 Project¹⁰. In keeping with the OEB's decisions on community expansions and the generic proceeding on system expansion¹¹, the following is a summary of conditions that apply to this application:

- Enbridge Gas can apply a \$0.23/m³ surcharge for up to 40 years to its existing approved rates (existing residential M1 or small commercial M2 rate as applicable) and charge it to all customers in the Project area
- Enbridge Gas will show the SES as a separate line on the customer's monthly bill
- Enbridge Gas will treat the SES as revenue
- If a customer's property is sold, Enbridge Gas will charge the SES to the new owner for the balance of the original SES term
- Enbridge Gas may apply the SES to any future short main extensions off the Project; however, if the balance of the original term is insufficient to achieve a Profitability Index (PI) of 1.0 for the short main extension, then Enbridge Gas may extend the term or else require a capital contribution
- Enbridge gas shall provide a 10-year rate stability period during which Enbridge Gas will bear the risk of variances in its customer attachment forecast and any associated variances in revenue
- Enbridge Gas may seek recovery for any revenue requirement shortfall after the end of the initial 10-year period; any such application shall be supported by a revised PI calculation that uses actual capital costs and actual customer attachments
- Enbridge Gas may bring forward any variance between actual and forecast capital costs in a future rate application; the prudence of any excess capital costs incurred would be subject to an OEB review at the time of rebasing¹²

¹⁰ EB-2015-0179

¹¹ EB-2016-0004, decision and order issued in November 2016

¹² In its decision and order in EB-2017-0306 / EB-2017-0307, the Enbridge Gas Inc. amalgamation proceeding, the OEB approved a five-year deferred rebasing period.

Findings

A SES was first approved in the OEB's Generic Community Expansion Proceeding¹³. In its 2015 Project application, the OEB set a surcharge rate of \$0.23/ m³ for a maximum term of 40 years. The benefits of approving a consistent \$0.23/ m³ SES across expansion projects were submitted as the basis for requesting the SES rate of \$0.23/ m³. These benefits included: a consistent rate across expansion projects; a predictable rate to allow parties to assess the economics of changing their fuel source and paying a surcharge, and an option that allows projects to proceed that would have been uneconomic without the surcharge. The OEB approved the application of the \$0.23/ m³ SES and the terms proposed.

The circumstances in this case mirror the earlier requests. The OEB finds that the proposed SES rate of \$0.23/ m³ for a period of 40 years and the other conditions described above are appropriate and are approved.

¹³ EB-2016-0004, decision and order issued in November 2016

6 ORDER

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. The OEB approves a System Expansion Surcharge of \$0.23 per m³ in the community of Chippewas of the Thames First Nation community as described in this application.
2. Enbridge Gas Inc. shall notify the OEB of the date of commencement of service of the Project.
3. Enbridge Gas Inc. shall pay the OEB's costs incidental to this proceeding upon receipt of the OEB's invoice.

DATED at Toronto August 1, 2019

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

SCHEDULE A
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