

# **DECISION AND ORDER**

**EB-2019-0006**

## **ENBRIDGE GAS INC.**

**Application for leave to construct a natural gas pipeline and  
associated facilities in the City of Ottawa**

**BEFORE: Susan Frank**  
Presiding Member

**Lynne Anderson**  
Member

---

**September 26, 2019**

## TABLE OF CONTENTS

1	INTRODUCTION AND SUMMARY.....	1
2	THE PROCESS .....	3
3	LEAVE TO CONSTRUCT .....	4
3.1	PUBLIC INTEREST ASSESSMENT.....	4
3.2	CONDITIONS OF APPROVAL.....	9
3.3	CONCLUDING REMARKS.....	10
4	ORDER .....	11
	SCHEDULE A.....	12
	SCHEDULE B.....	13
	SCHEDULE C.....	14

## 1 INTRODUCTION AND SUMMARY

Enbridge Gas Inc. (Enbridge Gas) 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 1.7 kilometres of polyethylene (PE), 6-inch diameter (NPS 6) intermediate pressure (IP) natural gas pipeline in the City of Ottawa (Proposed Project).

The Proposed Project is one part of a four-phase, four-year, multiple location project which started in 2018 and is planned to be completed in 2022 (St. Laurent Project). The St. Laurent Project involves construction of multiple plastic and steel pipelines and facilities with a main objective of replacing services currently provided by an existing 13 kilometre extra high pressure (XHP) steel 12-inch diameter (NPS 12) pipeline along St. Laurent Avenue (Existing XHP St. Laurent Pipeline).

The Existing XHP St. Laurent Pipeline is a one-way feed from the St. Laurent Control Station to the Rockcliffe Station and is a critical source of supply to the City of Ottawa and City of Gatineau – supplying natural gas to more than 165,000 customers. Enbridge Gas plans to take the Existing XHP St. Laurent Pipeline out of service in 2022. The Existing XHP St. Laurent Pipeline was built in 1958.

Enbridge Gas initially scheduled construction of the Proposed Project to begin in 2021, however, the schedule had to be advanced to 2019 in order to account for the City of Ottawa's road paving program. Following completion of the 2020 resurfacing work, the City of Ottawa will place a three-year moratorium on all surface works on St. Laurent Boulevard. As a result, Enbridge Gas adjusted its construction schedule for the Proposed Project to complete construction before the moratorium is implemented.

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

The new St. Laurent XHP pipeline is planned to be routed away from the Existing XHP St. Laurent Pipeline. The general location of the planned route for the new St. Laurent XHP NPS 12 pipeline is attached as Schedule B to this Decision and Order.<sup>1</sup>

---

<sup>1</sup> Enbridge Gas included this map response to question no. 3 in the Procedural Order No. 2, Appendix A (marked as Exhibit I.STAFF.9 dated September 18, 2019, Attachment 2, page 1, Enbridge Gas Distribution St. Laurent Blvd NPS 12 Gas Main Replacement.) In the legend of this map, the Existing XHP S/Laurent Pipeline is labeled as "Existing NPS 12 XHP Gas Main", while the new XHP St. Laurent pipeline is labeled as "Proposed NPS 12 XHP Gas Main Installation 2022"

The OEB examined Enbridge Gas' leave to construct application and understands the priority given to this phase of the project. Leave to construct the Proposed Project is granted subject to the conditions of approval attached as Schedule C to this Decision and Order (Conditions of Approval).

In the process of reviewing Enbridge Gas' application, the OEB expressed concerns about the clarity and scope of some aspects of Enbridge Gas' evidence, and how the Proposed Project relates to the need and timing of the entire St. Laurent Project. Although the OEB is granting leave to construct the Proposed Project, the OEB expects that the remaining multi-phases of the St. Laurent Project be dealt with on a comprehensive basis, in one application.

---

## 2 THE PROCESS

On May 15, 2019, Enbridge Gas filed its application with the OEB for an order granting leave to construct the Proposed Project.

A Notice of Hearing was issued by the OEB on June 12, 2019. Pollution Probe applied for intervenor status and cost eligibility, however, both requests were denied. Following its denial to be an intervenor in the proceeding, Pollution Probe filed a letter of comment regarding the Proposed Project on July 26, 2019. No other party requested intervenor status in the proceeding.

The OEB proceeded by way of a written hearing. In accordance with Procedural Order No. 1, OEB staff filed interrogatories regarding Enbridge Gas' application on July 31, 2019, while Enbridge Gas filed its responses to interrogatories on August 9, 2019. OEB staff filed its written submission with the OEB on August 20, 2019, and Enbridge Gas filed its reply submission on August 26, 2019.

On September 11, 2019, the OEB issued Procedural Order No. 2 asking Enbridge Gas to provide further information to clarify the need for the Proposed Project within the context of the St. Laurent Project, and to specify the impacts of any delay on the overall St. Laurent Project in-service date of 2022 from a public interest perspective. Enbridge Gas responded to the additional questions on September 18, 2019.

## 3 LEAVE TO CONSTRUCT

### 3.1 Public Interest Assessment

This application seeks an order granting leave to construct a natural gas pipeline under section 90 of the OEB Act. Section 96 of the OEB Act provides that the OEB shall make an order granting leave to construct if the OEB finds that “the construction, expansion or reinforcement of the proposed work is in the public interest”. When determining whether a project is in the public interest, the OEB typically examines the need for the project; the project cost and economics; the environmental impacts; impacts on landowners; and Indigenous consultation.

Enbridge Gas stated that the need for the Proposed Project is underpinned by the need for the overall multi-year replacement of the Existing XHP St. Laurent Pipeline. The need for the Proposed Project cannot be considered in isolation from the overall replacement of the Existing XHP St. Laurent Pipeline. Some preliminary information was provided on the overall project but many questions await the filing of the complete project prior to the OEB making findings on the typical elements of a leave to construct application.

Enbridge Gas stated that integrity of the Existing XHP St. Laurent Pipeline<sup>2</sup> is the main driver for the overall need for the St. Laurent Project. Completion of the St. Laurent Project will improve emergency response and reduce the risk of outages for customers and address numerous pipeline integrity issues.<sup>3</sup> Enbridge Gas explained that the transfer of several hundred customers from XHP to the IP system is needed for two reasons:<sup>4</sup> i) safety and engineering risks customers may incur if served off an XHP pipeline; and ii) the proposed routing of the new St. Laurent XHP pipeline is away from these customers. However, without more information on the new St. Laurent XHP pipeline it is difficult for the OEB to assess this statement.

---

<sup>2</sup> The St. Laurent Pipeline was identified in Enbridge Gas' Utility System Plan and Asset Management Plan filed in the EB-2018-0305 proceeding.

<sup>3</sup> Enbridge Gas identified integrity issues such as the loss of cathodic protection leading to corrosion and leaks; corrosion defects due to the condition of pipe coatings; latent third party damages that have led to gouges, dents, and damaged coating, resulting in corrosion and leaks; and unrestrained live main and service stubs and compression coupling fittings.

<sup>4</sup> Enbridge Gas response to question no. 3 in the Procedural Order No. 2, Appendix A (marked as Exhibit I.STAFF.9 dated September 18, 2019, page 2)

Enbridge Gas stated that construction of the Proposed Project would allow Enbridge Gas to transfer 66 customers currently served by the existing NPS 12 pipeline on St. Laurent Boulevard to the new NPS 6 IP PE pipeline system.<sup>5</sup> Enbridge Gas noted that the Proposed Project must be completed in 2019 in order to coordinate with the City of Ottawa's road paving program as St. Laurent Boulevard is scheduled to be resurfaced in May 2020. Following the completion of the 2020 resurfacing work, the City of Ottawa will place a three-year moratorium on all surface works on St. Laurent Boulevard.

Enbridge Gas' schedule for the overall St. Laurent Project is based on a premise that a delay in construction completion of the Proposed Project would result in Phase 4 construction being deferred from 2022 to 2024. The Existing XHP St. Laurent Pipeline cannot be abandoned until all customers have been transferred to the new NPS 6 IP PE pipelines.<sup>6</sup> As the Existing XHP St. Laurent Pipeline is a one-way feed there is no backup supply of natural gas service to customers currently served by the Existing XHP St. Laurent Pipeline.

If construction of the Proposed Project is not completed by May 2020 Enbridge Gas identified the potential to operate both the new St. Laurent XHP pipeline and the Existing XHP St. Laurent Pipeline for the period from 2022 to 2024. However, Enbridge Gas indicated that such a delay would increase integrity related risks for the Existing XHP St. Laurent Pipeline, and would increase operating and maintenance costs as two NPS 12 pipelines would be operating in parallel for two years. Furthermore, the overall project costs would increase if Enbridge Gas would have to enter newly paved roads.

The Proposed Project's cost is estimated to be \$5.5 million – consisting of \$4.2 million in direct capital costs and \$1.3 million in indirect overhead costs. The direct capital cost estimate for the Proposed Project includes a 25% contingency, with the exception of a 10% contingency applied to costs attributed to consultants (Consultant Costs).

As the Proposed Project is a replacement project driven by integrity concerns, Enbridge Gas did not conduct an economic feasibility analysis using the discounted cash flow approach. Enbridge Gas highlighted it did not exclude any cost components from the estimated cost and that the Proposed Project does not meet the \$10 million materiality threshold for Incremental Capital Module (ICM) funding.<sup>7</sup>

---

<sup>5</sup> Application, Exhibit B/Tab 1/Schedule 1/ pages 2-3

<sup>6</sup> Response to OEB Staff IR No. 3(c)

<sup>7</sup> Response to OEB Staff IR No. 1(b)

Enbridge Gas retained Dillon Consulting Ltd. (Dillon) to complete an environmental assessment and to evaluate the route for the pipeline. Enbridge Gas followed the OEB's *Guidelines for the Location, Construction, and Operation of Hydrocarbon Pipelines and Facilities in Ontario* (Environmental Guidelines) to assess the potential environmental impact of the Proposed Project. No route alternatives were considered as the Proposed Project will be serving customers directly along the route.<sup>8</sup> The environmental assessment documented in the Environmental Report (ER) was submitted to the Ontario Pipeline Coordinating Committee (OPCC) on April 11, 2019. Enbridge Gas received comments from the Ministry of Environment, Conservation and Parks (MECP) and the Ministry of Natural Resources and Forestry (MNRF), which both indicated that they do not have any concerns with the Proposed Project. On September 18, 2019 Enbridge Gas filed an updated table outlining the correspondence with federal agencies, provincial agencies, including the OPCC members, and affected municipalities, which indicated no outstanding concerns or issues as a result of consultation.<sup>9</sup> The Environmental Implementation Plan for the Proposed Project will incorporate recommended mitigation measures for the environmental issues and concerns associated with the proposed activities.

Enbridge Gas submitted a Stage 1 Archaeological Assessment (AA) to the Ministry of Tourism, Culture and Sport (MTCS) on March 22, 2019. The Stage 1 AA indicated that a Stage 2 AA was required. The Stage 2 AA was submitted to the MTCS on August 30, 2019. Enbridge Gas received confirmation that the Stage 2 AA was entered into the Ontario Public Register of Archeological Reports. Enbridge filed a copy of the confirmation by the MTCS on September 18, 2019.<sup>10</sup>

The Proposed Project will be located in road allowances so Enbridge Gas does not require any new permanent or temporary easements.

Enbridge Gas provided the Ministry of Energy, Northern Development and Mines (MENDM) with a description of the Proposed Project on January 22, 2019. The MENDM identified two Indigenous communities to be consulted – the Algonquins of Ontario and the Mohawks of Akwesasne. On August 7, 2019, the MENDM provided Enbridge Gas with a letter regarding Indigenous engagement activities for the Proposed Project. In that letter, the MENDM indicated that the procedural aspects of the Indigenous

---

<sup>8</sup> Application, Exhibit C/Tab 1/Schedule 1/ page 1

<sup>9</sup> Enbridge Gas included this table in response to question no. 11 in the Procedural Order No. 2, Appendix A (marked as Exhibit I.STAFF.17 dated September 18, 2019, Attachment 2, pages 1-7)

<sup>10</sup> Enbridge Gas included this letter in response to question no. 10 in the Procedural Order No. 2, Appendix A (marked as Exhibit I.STAFF.16 dated September 18, 2019, Attachment 1, page 1)



consultation undertaken by Enbridge Gas to date, for the purposes of the Proposed Project, are satisfactory.

OEB staff's submission covered all aspects of the Proposed Project. With regard to need, OEB staff submitted that it agreed with Enbridge Gas that there is a need for the Proposed Project. OEB staff also submitted that the 2019 construction schedule appeared reasonable as it accommodates road works by the City of Ottawa and ensures that the 2022 in-service date for the new St. Laurent pipeline is met.

OEB staff noted that it had no significant concerns with the estimates of the direct capital cost of the Proposed Project. OEB staff also submitted that concerns regarding the level of contingency included in Enbridge Gas' estimate for the Proposed Project can be addressed through Conditions of Approval. Specifically, OEB staff noted that Condition 5 will provide the OEB with the required information to be considered in a future rebasing proceeding.<sup>11</sup>

OEB staff submitted that it has no concerns with the preferred route, route selection methodology or environmental aspects of the Proposed Project.<sup>12</sup>

OEB staff submitted that Enbridge Gas appears to have made adequate efforts to engage with affected Indigenous groups and noted that no concerns that could materially affect the Proposed Project have been raised through its consultation. OEB staff also concluded in its submission that the procedural aspects of the duty to consult have been sufficiently discharged for the Proposed Project.

## Findings

The interrogatory responses Enbridge Gas filed on September 18<sup>th</sup> have added clarity and assisted in the OEB's understanding of the Proposed Project. As indicated in Procedural Order No. 2, the OEB has concerns about granting stand-alone approval for one part of a multi-phase, multi-year and multiple location project. Whenever possible, the OEB prefers to consider the overall plan for supply to an area when assessing each project.

---

<sup>11</sup> OEB Staff Submission, pages 7-8

<sup>12</sup> OEB Staff Submission, page 9

The OEB is concerned that the Proposed Project will only be required if the new XHP St. Laurent pipeline is approved. Also, the cost estimate cannot be effectively evaluated if there are no other alternatives or no comparisons to the costs of similar projects.

While several aspects of the environmental matters were addressed, Enbridge Gas did not file an Environmental Protection Plan (EPP). Enbridge Gas did commit to filing an EPP prior to mobilization and construction of the Proposed Project if it were to be required.<sup>13</sup> OEB requires the EPP to be filed which is included as a condition of approval. The OEB is satisfied that with the condition of approval requiring Enbridge Gas to implement all the recommendations of the Environmental Protection Plan, and all the recommendations and directives identified by the Ontario Pipeline Coordinating Committee, any environmental impacts will be appropriately mitigated.

Enbridge Gas attempted to engage the Algonquins of Ontario and the Mohawks of Akwesasne. Despite providing opportunities to these Indigenous communities, they did not participate given the time constraints. The OEB expects there will be better opportunities for the potentially impacted Indigenous communities to engage as part of the new XHP St. Laurent pipeline project. For the Proposed Project the MENDM in its letter of August 7, 2019 indicated that the procedural aspects of the Indigenous consultant undertaken by Enbridge Gas are satisfactory. The OEB finds that the Indigenous consultation has been adequately discharged for the Proposed Project.

Despite the OEB's dissatisfaction that the current application was filed in isolation from the overall replacement of the Existing XHP St. Laurent Pipeline, the OEB accepts that it is in the public interest for this project to proceed at this time. The OEB has not been able to test all of the typical considerations of a leave to construct project. To be clear the OEB has not assessed the prudence of the costs of the Proposed Project. Enbridge will need to defend the prudence at the rate proceeding where Enbridge Gas seeks inclusion of this investment in their rate base or recovery of costs.

The OEB expects that approvals for the remaining multi-phases of the St. Laurent Project will be dealt with on a comprehensive basis, and that the OEB will not be seeing separate applications for leave to construct individual phases of the project in the future. The single application covering the remaining phases should be filed to meet Enbridge Gas' timelines and allow the OEB to complete its review using normal decision metrics.

---

<sup>13</sup> Application, Exhibit C/Tab 1/Schedule 2/ page 2

### 3.2 Conditions of Approval

OEB staff proposed, through interrogatories, the draft Conditions of Approval typically attached to leave to construct decisions. In its response, Enbridge Gas agreed with all of the draft Conditions of Approval with the exception of Condition 2(b)(i) which read:

2. (b) i. of the commencement of construction, at least ten days prior to the date construction commences;

Enbridge Gas noted that Condition 2(b)(i) should be revised given that the Proposed Project needs to be constructed prior to the City of Ottawa's road moratorium. As a result, Enbridge Gas proposed that Condition 2(b)(i) should be revised to read:

2. (b) i. of the commencement of construction, at least **five** ~~ten~~ days prior to the date construction commences; [**Emphasis added**]

OEB staff submitted that Enbridge Gas' proposal to change the aforementioned condition was reasonable and acceptable as it accommodates an earlier start of construction. In its reply submission, Enbridge Gas indicated that it does require a number of permits prior to construction commencement and that it has agreed to certify, as part of the OEB's Conditions of Approval, that it has obtained all the necessary permits for the construction of the Proposed Project.

### Findings

The approved Conditions of Approval are attached as Schedule C to this Decision and Order.

The OEB finds that Enbridge Gas' compliance with the Conditions of Approval will ensure that the requirements of other approvals, permits, licences, and certificates are fully addressed.

### **3.3 Concluding Remarks**

In conclusion, the OEB acknowledges the constraints for the Proposed Project and the urgency to complete construction of the Proposed Project prior to May 2020. The OEB approves the Proposed Project, subject to the conditions attached in Schedule C.

## 4 ORDER

### THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Enbridge Gas Inc. is granted leave, pursuant to section 90(1) of the OEB Act, to construct approximately 1.7 kilometres of natural gas pipeline and associated facilities in the City of Ottawa, as described in its application.
2. Leave to construct is subject to Enbridge Gas Inc. complying with the Conditions of Approval set out in Schedule C.
3. Enbridge Gas Inc. shall pay the OEB's costs incidental to this proceeding upon receipt of the OEB's invoice.

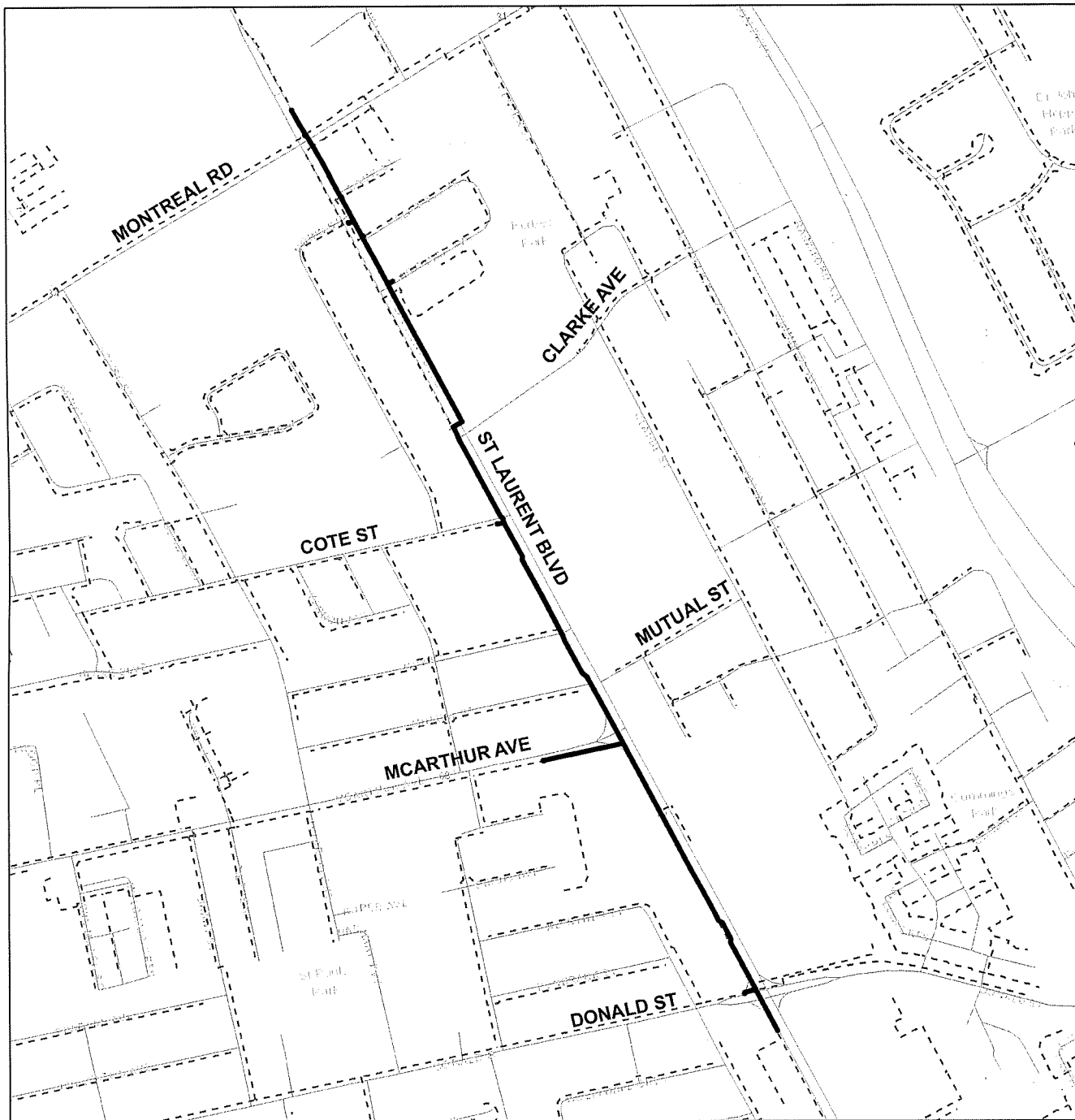
**DATED** at Toronto September 26, 2019

**ONTARIO ENERGY BOARD**

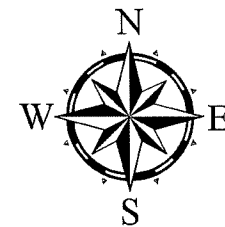
*Original Signed By*

Kirsten Walli  
Board Secretary

**SCHEDULE A**  
**DECISION AND ORDER**  
**ENBRIDGE GAS INC.**  
**EB-2019-0006**  
**SEPTEMBER 26, 2019**



## Project Area



## Legend

- ★ Project Area
- Proposed Pipeline Segment
- - - Existing Pipelines



**SCHEDULE B**  
**DECISION AND ORDER**  
**ENBRIDGE GAS INC.**  
**EB-2019-0006**  
**SEPTEMBER 26, 2019**

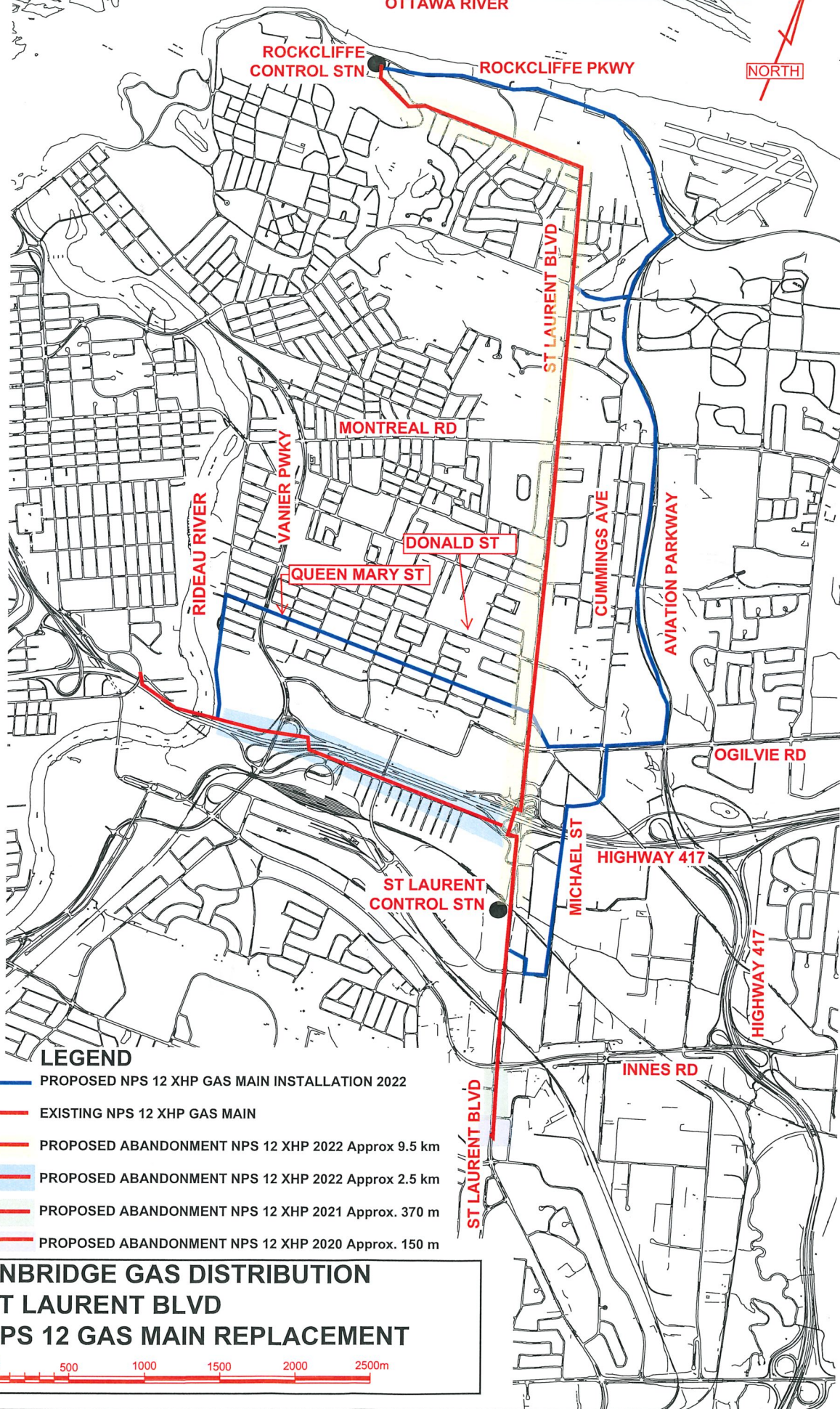


# MAP 1

OTTAWA RIVER

Filed: 2019-09-18  
EB-2019-0008  
Exhibit 1 STAFF 9  
Attachment 2  
Page 1 of 1

NORTH



**SCHEDULE C**  
**DECISION AND ORDER**  
**ENBRIDGE GAS INC.**  
**EB-2019-0006**  
**SEPTEMBER 26, 2019**

## **SCHEDULE C – CONDITIONS OF APPROVAL**

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

#### **Enbridge Gas Inc.**

#### **EB-2019-0006**

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-2019-0006 and these Conditions of Approval.
2. (a) Authorization for leave to construct shall terminate 18 months after the decision is issued, unless construction has commenced prior to that date.  
  
(b) Enbridge Gas shall give the OEB notice in writing:
  - i. of the commencement of construction, at least five 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 file an Environmental Protection Plan. Enbridge Gas shall also implement all the recommendations of the Environmental Protection Plan and Environmental Report filed in the EB-2019-0006, and all the recommendations and directives identified by the Ontario Pipeline Coordinating Committee review.
4. Enbridge Gas shall advise the OEB of any proposed change 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 assessments and 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.

5. Concurrent with the final monitoring report referred to in Condition 6(b), Enbridge Gas shall file a Post Construction Financial Report, which shall provide a variance analysis of project cost, schedule and scope compared to the estimates filed in this proceeding, including the extent to which the project contingency was utilized. Enbridge Gas shall also file a copy of the Post Construction Financial Report in the proceeding where the actual capital costs of the project are proposed to be included in rate base or any proceeding where Enbridge Gas proposes to start collecting revenues associated with the project, whichever is earlier.
6. Both during and after construction, Enbridge Gas shall monitor the impact 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 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 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 such actions taken to prevent or mitigate any identified impacts of construction;
  - iv. include the results of analyses and monitoring programs and any recommendations arising therefrom; and
  - v. include a log of all complaints received by Enbridge Gas, including the date/time the complaint was received, a description of the complaint, any actions taken to address the complaint, the rationale for taking such actions
7. Enbridge Gas shall designate one of its employees as project manager who will be responsible for the fulfillment of these conditions, and shall provide the employee's name and contact information to the OEB and to all the appropriate landowners, 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 purposes 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).