



Ontario
Energy
Board

Commission
de l'énergie
de l'Ontario

DECISION AND ORDER

EB-2019-0187

ENBRIDGE GAS INC.

Application for leave to construct natural gas pipelines and associated facilities to serve the community of Saugeen First Nation, north of Southampton in Bruce County

BEFORE: **Susan Frank**
Presiding Member

February 6, 2020

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1 INTRODUCTION AND SUMMARY

In May 2018, Union Gas Limited (Union Gas) filed a combined leave to construct application for expansion into three communities: Chippewas of the Thames First Nation, Saugeen First Nation, and North Bay¹. Union Gas was awarded funding to construct facilities in each of the three communities under the former Natural Gas Grant Program (NGGP). The OEB placed the application in abeyance in November 2018 after the NGGP was cancelled.

In January 2019, Union Gas and Enbridge Gas Distribution Inc. amalgamated to become Enbridge Gas Inc. (Enbridge Gas).

In March 2019, Enbridge Gas was awarded funding to construct facilities in each of the three previously named communities under the new Access to Natural Gas Act, 2018 program.

On July 31, 2019, Enbridge Gas withdrew the combined leave to construct application in favour of filing separate applications for each of the projects.

On August 1, 2019, the OEB approved a system expansion surcharge (SES) for the Chippewas of the Thames First Nation portion of the formerly combined project².

On October 17, 2019, Enbridge Gas filed an application for the Saugeen First Nation portion of the previously combined project (Application). Enbridge Gas is seeking leave to construct (LTC) under section 90 of the *Ontario Energy Board Act, 1998* (OEB Act) to construct approximately 16 km of NPS 4-inch (NPS 4) pipeline and a pressure regulating station to serve approximately 176 potential customers (Project). The community of Saugeen First Nation is located in Bruce County, along the shoreline of Lake Huron, immediately north of the community of Southampton.

The 10-year forecast growth in Saugeen First Nation could be served using nominal pipe size 2-inch pipeline (NPS 2). However, Enbridge Gas proposes to install NPS 4 pipeline to meet the forecast growth in the decade following the completion of the Project.

Enbridge Gas is also seeking approval under section 36 of the OEB Act for a SES applicable to the Project. In particular, Enbridge is seeking approval of the same SES that was previously approved by the OEB in Union Gas' 2015 Community Expansion

¹ EB-2018-0142

² EB-2019-0139

Project³ and the Chippewas of the Thames First Nation Project⁴. This would result in Enbridge applying a \$0.23/m³ surcharge for up to 40 years to its existing approved rates for all customers in the Saugeen First Nation.

Enbridge Gas is proposing a 10-year rate stability period. During this period, Enbridge Gas will bear the risk of variances from its customer attachment forecast and any capital cost overruns. This approach is consistent with the OEB's Decision in the generic proceeding on system expansion (Generic Decision)⁵.

The estimated capital cost of the NPS 4 design is approximately \$3.3 million. The estimated capital cost of the NPS 2 design is approximately \$2.5 million. The results of a discounted cash flow analysis on the NPS 2 design, which takes into consideration the \$1.8 million in government funding through the Access to Natural Gas Act program, shows that the Project has a Profitability Index (PI) of 1.0. Enbridge Gas did not provide a DCF analysis for the NPS 4 design.

Construction of the Project is scheduled to begin in May 2020 with an in-service date of November 2020. Enbridge Gas requested a decision from the OEB no later than February 2020.

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

The OEB examined all aspects of Enbridge Gas' LTC application and is satisfied that the Project is in the public interest; however, only the NPS 2 design has been justified. Leave to construct the NPS 2 design for the Project is granted subject to the conditions of approval attached as Schedule B to this Decision and Order (Conditions of Approval). The OEB also approves the requested SES.

³ EB-2015-0179

⁴ EB-2019-0139

⁵ EB-2016-0004

2 THE PROCESS

Enbridge Gas filed the Application on October 17, 2019. The OEB issued a completeness letter on October 22, 2019, and a Notice of Hearing on November 13, 2019. The intervention period ended on December 2, 2019.

Procedural Order No. 1 was issued on December 11, 2019. Pollution Probe was granted intervenor status and is eligible to apply for cost awards. The Procedural Order provided for interrogatories and submissions on the Application. OEB staff and Pollution Probe filed written interrogatories by December 20, 2019. Enbridge Gas filed interrogatory responses on January 10, 2020.

In accordance with Procedural Order No. 2, OEB staff and Pollution Probe filed written submissions with the OEB on January 17, 2020, and Enbridge Gas filed its reply submission on January 24, 2020.

3 LEAVE TO CONSTRUCT

Enbridge Gas 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.

3.1 Need for the Project

Enbridge Gas states that First Nation officials, residents, and business owners in the Saugeen First Nation north of Southampton in the Bruce County have requested natural gas service from Enbridge Gas. Potential natural gas customers of the Project currently rely on propane, fuel oil, wood and electricity to meet their energy needs. Compared to these fuels, natural gas is a less expensive and, in some cases, a lower carbon energy source.

The Saugeen First Nation has a population of 1,883 with 805 people living on the reserve. There are 146 existing residential premises and 30 existing commercial establishments that could be served with natural gas.

Enbridge Gas completed a door-to-door questionnaire to assess the market potential of the Saugeen First Nation. Of the 126 potential privately owned residential dwellings in the Saugeen First Nation, a total of 32 completed the door-to-door questionnaire. The results suggest that 43% of the total dwellings are interested in obtaining natural gas service, and Enbridge Gas forecasts 30 customers in the first year and 89 customers by year 10 of the project. Based on discussions with the Saugeen First Nation, Enbridge Gas has assumed 100% of all Band-owned buildings will attach over the first 2 years of the Project.

Findings

The OEB is satisfied that Enbridge Gas has properly assessed the market potential for natural gas service in the community of Saugeen First Nation and that the Project is needed.

The OEB notes that providing northern Ontario communities with access to less expensive and reliable sources of energy is consistent with the government of Ontario’s energy and economic development policies. The Project will allow Enbridge Gas to

serve multiple customers who would otherwise not be served economically, and that with government funding through the Access to Natural Gas Act program, the NPS 2 design will be economically feasible. Enbridge Gas received support for the Project from the Saugeen First Nation in the form of a Band Council Resolution.

3.2 Proposed Facilities and Alternatives

The proposed facilities would connect to Enbridge Gas' Port Elgin / Southampton high-pressure pipeline system at a point south of the Saugeen First Nation. A distribution regulating station is proposed to be installed at the corner of Bruce Road 17 and B Line. A proposed pipeline would be installed north along B Line to the Saugeen First Nation, where it will travel east and west to serve the Saugeen First Nation. The total pipeline length is approximately 16 kilometers.

Alternative routings for the proposed pipelines were considered. The preferred route was selected as the most direct and cost-effective route that offers the most customer connections, minimizes environmental and socio-economic impacts, and that connects to an existing pipeline at a location with enough capacity to supply the community.

Enbridge Gas filed a letter from the Technical Standards and Safety Authority dated July 10, 2019, that confirms that the "technical information of the project ... [is] in compliance to the requirements of applicable standard CSA Z662-15 and of Oil and Gas Code Adoption Document, FS-238-18."

Upsizing

In its application, Enbridge Gas stated that it could serve the 10-year forecast growth in Saugeen First Nation using NPS 2 pipeline, but that it was applying to construct NPS 4 pipeline⁶. In an interrogatory response, Enbridge Gas clarified that the proposed NPS 4 pipeline is sized to meet the forecast growth in the decade following the completion of the Project⁷. Enbridge Gas says the incremental forecast growth would primarily occur within the Project area⁸, with some occurring outside the Project area and in particular the community of Southampton⁹. Enbridge Gas stated that if the pipe is installed as NPS 2, there would be very limited capacity for any future growth on the system¹⁰.

⁶ Application, Exhibit B, Tab 1, Schedule 3, page 1

⁷ Applicant's response to Pollution Probe interrogatory 7

⁸ Applicant's response to Pollution Probe interrogatory 2 a)-c)

⁹ Application, Exhibit B, Tab 1, Schedule 3, page 1

¹⁰ Applicant's response to Pollution Probe interrogatory 7

OEB staff submitted that Enbridge Gas did not provide sufficient evidence to support the need and capital cost of the proposed upsized. OEB staff submitted that the OEB should only approve the NPS 2 design of the Project.

Findings

The proposed NPS 4 pipeline was, according to Enbridge Gas, sized to meet the forecast growth in the decade following the completion of the Project as well as additional growth outside the Project area in the longer term; however, no specific details of the projected growth were provided¹¹. While potential customers¹² supported that there is a need for additional capacity in the area, there is insufficient quantification of this need. The estimate by Enbridge Gas showing a future potential for growth of 1,105 seasonal customers, 123 residential customers, 8 multi-family customers, and 6 commercial customers provides no timing for these potential customers or assurance that they will decide to use natural gas.

The minimum facilities to serve the 10-year load requires only that an NPS 2 pipeline be constructed. The OEB agrees with concerns expressed by OEB staff that Enbridge has provided insufficient rationale for the NPS 4 pipeline. Given the high cost of the upgrade to NPS 4, a compelling need for the NPS 4 pipe is required.

The OEB approves the NPS 2 design for the Project. The proposed route is accepted by the OEB.

3.3 Project Costs and Economics

The total estimated 10-year capital cost for the NPS 4 design is approximately \$3.31 million, and includes all pipeline, station, and services costs as well as contingency costs. The cost to upsized the pipe from NPS 2 to NPS 4 is \$777,000. The total 10-year cost of the NPS 2 including pipeline, station, and services costs as well as contingency costs, is approximately \$2.54 million¹³.

The Project has been awarded government funding up to \$1.8 million through Ontario's Access to Natural Gas Act, 2018 program resulting in a 10-year net capital investment

¹¹ In EB-2017-0180 (Union Gas Limited, Greater Sudbury LTC, Decision and Order issued on September 28, 2017), the OEB encouraged the applicant to provide the OEB "with a forecast of growth to support the upsizing of any pipelines, as well as information on the longer-term plans for supply to an area in order to provide context for individual projects."

¹² Exhibit B, Tab 1, Schedule 3, Section 3 and response to OEB staff interrogatory 3 b)

¹³ Application, Exhibit B, Tab 2, Schedule 5b, page 1

by Enbridge Gas of approximately \$1.5 million for the NPS 4 design and approximately \$650,000 for the NPS 2 design.

Enbridge Gas completed a discounted cash flow (DCF) analysis using the costs of the NPS 2 design of the Project. The results show that the project has a net present value of \$0 and a PI of 1.0 when using the NPS 2 design.

Pollution Probe asked whether the Project needed a PI of 1.0 given that OEB policy allows projects with a PI as low as 0.8 to be added to the utility's Rolling Project Portfolio¹⁴. Enbridge Gas noted that a project with a PI of 0.8 implies that the project will have a negative net present a value and as a result would be subsidized by existing customers. Enbridge Gas further noted that the SES proposals previously approved by the OEB have recognized this fact, and that the requirement to have a PI of 1.0 for community expansion projects is consistent with the OEB's findings in the Generic Decision and subsequent community expansion projects¹⁵.

OEB staff observed that the unit costs of the Project are less than half the average unit cost of other comparable community expansion projects. OEB staff opined that, to the extent that Enbridge Gas's estimates are accurate, lower costs are favorable. OEB staff submitted that, to the extent that Enbridge Gas's estimates are understated, Enbridge Gas would bear the risks associated with capital overruns during the 10-year rate stability period after which time it could apply to include the costs in rate base.

OEB submitted that the OEB should approve the minimum sized facilities, so that a PI of 1.0 is achieved.

Findings

The PI of 1.0 satisfies the OEB's economic test for this project. The DCF used the NPS 2 design to support the attachment forecast rather than the NPS 4 design, which cost an additional \$777,000.

The OEB agrees with Enbridge Gas that it should plan on achieving a PI of 1.0 rather than having some communities subsidize other communities by only targeting a PI of 0.8 as proposed by Pollution Probe.

¹⁴ EBO 188, Guidelines for Assessing and Reporting on Natural Gas System Expansion in Ontario

¹⁵ E.g., EB-2015-0179, EB-2017-0147, EB-2018-0263

3.4 Environmental Matters

An Environment Protection Plan (EPP) for the Project was prepared by Enbridge Gas' Environmental Planning Department. The results of the EPP indicate that the environmental and socio-economic effects associated with construction of the Project are generally short-term in nature and minimal. No significant cumulative effects are anticipated as long as the mitigation measures listed in the EPP are followed. Enbridge Gas says it will ensure that the recommendations in the EPP are followed.

Enbridge Gas circulated a copy of the EPP to the Ontario Pipeline Coordinating Committee (OPCC) in April, 2019. A summary of comments received by Enbridge Gas prior to filing the Application and the corresponding responses to the OPCC are provided in evidence. Enbridge Gas states that there have been no communications with the OPCC since the Application was filed with the OEB and there are no outstanding OPCC related concerns.

OEB staff noted that the Archaeological Assessment work for the Project is on-going. OEB staff further noted that, if adopted by the OEB, one of the proposed conditions of approvals requires Enbridge Gas to obtain all necessary permits, authorizations and approvals prior to construction.

Findings

The OEB accepts Enbridge Gas' EPP and its opinion that with effective implementation of the recommended mitigation measures, no significant adverse residual environmental impacts are likely. As construction is planned within the previously disturbed road allowance, no adverse interactions are expected to occur along the pipeline route. The OPCC has no outstanding concerns.

3.5 Land Matters

The proposed pipelines and the pressure regulating station are located within existing road allowance. As a result, Enbridge Gas does not foresee the need for any land purchases, or permanent or temporary easements.

3.6 Indigenous Consultation

The Ministry of Energy, Northern Development and Mines (MENDM) delegated to Enbridge Gas the procedural aspects of the Crown's Duty to Consult. In a letter dated June 28, 2019, the MENDM indicated that Enbridge Gas' consultation activities with respect to the Project are satisfactory to date.

Enbridge Gas has received support for the Project from the Saugeen First Nation in the form of a Band Council Resolution.

Findings

The OEB finds that Enbridge Gas followed the OEB's Environmental Guidelines with respect to Indigenous consultation. As part of these requirements, Enbridge Gas contacted the MENDM with respect to the Crown's duty to consult on the Project.

While the OEB is not bound to accept the determination of the MENDM, the OEB finds that MENDM's letter of June 28, 2019 to be adequate evidence that Enbridge Gas' efforts to date are satisfactory to discharge the Crown's Duty to Consult with respect to the Project. This letter was based, in part, on the information received by the MENDM through direct contact with the potentially affected Indigenous communities.

The OEB finds that Enbridge Gas' efforts to date, together with its ongoing plans, are sufficient for the OEB to conclude that Enbridge Gas has satisfied the duty to consult for the purposes of this approval of the leave to construct. The OEB expects that Enbridge Gas will continue its consultation activities with affected Indigenous communities throughout the life of the Project.

4 SYSTEM EXPANSION SURCHARGE

The ability for a utility to apply to the OEB for approval of a SES arose from the Generic Decision. The OEB has since approved the use of a SES for Union Gas Limited's 2015 Project, and the same SES was approved for Union Gas Limited's Chippewas of the Thames First Nation Project. The circumstances in the current case mirror the earlier requests.

The estimated capital cost of the NPS 2 design is approximately \$2.5 million. Enbridge Gas provided evidence that the NPS 2 design does not achieve a PI of 1.0 based solely on the use of its existing OEB approved rates. Enbridge provided a discounted cash flow analysis of the NPS 2 design that shows that a PI of 1.0 can be achieved with the following.

- a) A SES of \$0.23/m³ for up to 40 years
- b) Ontario's Access to Natural Gas Act program funding of \$1.8 million
- c) Municipal support in the form of Payments in Lieu of Taxes of \$4,774 per year for ten years

Findings

As previously stated, the OEB finds that the Project is needed and the NPS 2 design is approved. The OEB finds that the proposed rate is needed to make the NPS 2 design economic and thereby bring natural gas service to an underserved community. The OEB agrees that the proposed SES is the same as that approved in the 2015 Project and the Chippewas of the Thames First Nation Project. All the same terms and conditions that were established in the OEB's Decision with Reasons for Union Gas Limited's 2015 Project, as described in Schedule C, are approved.

5 CONDITIONS OF APPROVAL

OEB staff asked Enbridge Gas to comment on a proposed set of conditions of approval. Enbridge Gas did not object to the proposed conditions. In its submission, OEB staff proposed a revision to condition of approval #5 such that it includes a requirement to report on contingency usage. Enbridge Gas did not object to the proposed revision in its reply submission.

Pollution Probe proposed three additional conditions of approval. One proposed condition would require Enbridge to maximize the benefit of all demand side management programs during consultation and implementation of the Project and report back on those results as part of the final post-construction report. The other two conditions were in relation to reporting variances between actual and forecast customer attachments and budgets. Enbridge Gas and OEB staff submitted that the additional conditions are not necessary.

Findings

The OEB will implement the revised set of conditions proposed by OEB staff. The OEB agrees with Enbridge Gas and OEB staff that the additional conditions proposed by Pollution Probe are not necessary. The approved Conditions of Approval are attached as Schedule B 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, licenses, and certificates are fully addressed.

6 ORDER

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Pursuant to section 90 of the OEB Act, Enbridge Gas Inc. is granted leave to construct approximately 16 kilometres of pipeline using the NPS 2 design to serve the community of Saugeen First Nation, north of Southampton in Bruce County, 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 B.
3. Pursuant to section 36 of the OEB Act, the OEB approves a System Expansion Surcharge of \$0.23 per m³ for up to 40 years in the Saugeen First Nation community as described in Schedule C.
4. Pollution Probe shall file with the OEB and forward to Enbridge Gas Inc. its cost claim in accordance with the OEB's *Practice Direction on Cost Awards* on or before February 20, 2020.
5. Enbridge Gas Inc. shall file with the OEB and forward to Pollution Probe any objections to the claimed costs of Pollution Probe on or before March 5, 2020.
6. If Enbridge Gas Inc. objects to Pollution Probe's costs, Pollution Probe shall file with the OEB and forward to Enbridge Gas Inc. its response, if any, to the objections to cost claims on or before March 19, 2020.
7. Enbridge Gas Inc. shall pay the OEB's costs incidental to this proceeding upon receipt of the OEB's invoice.

DATED at Toronto February 6, 2020

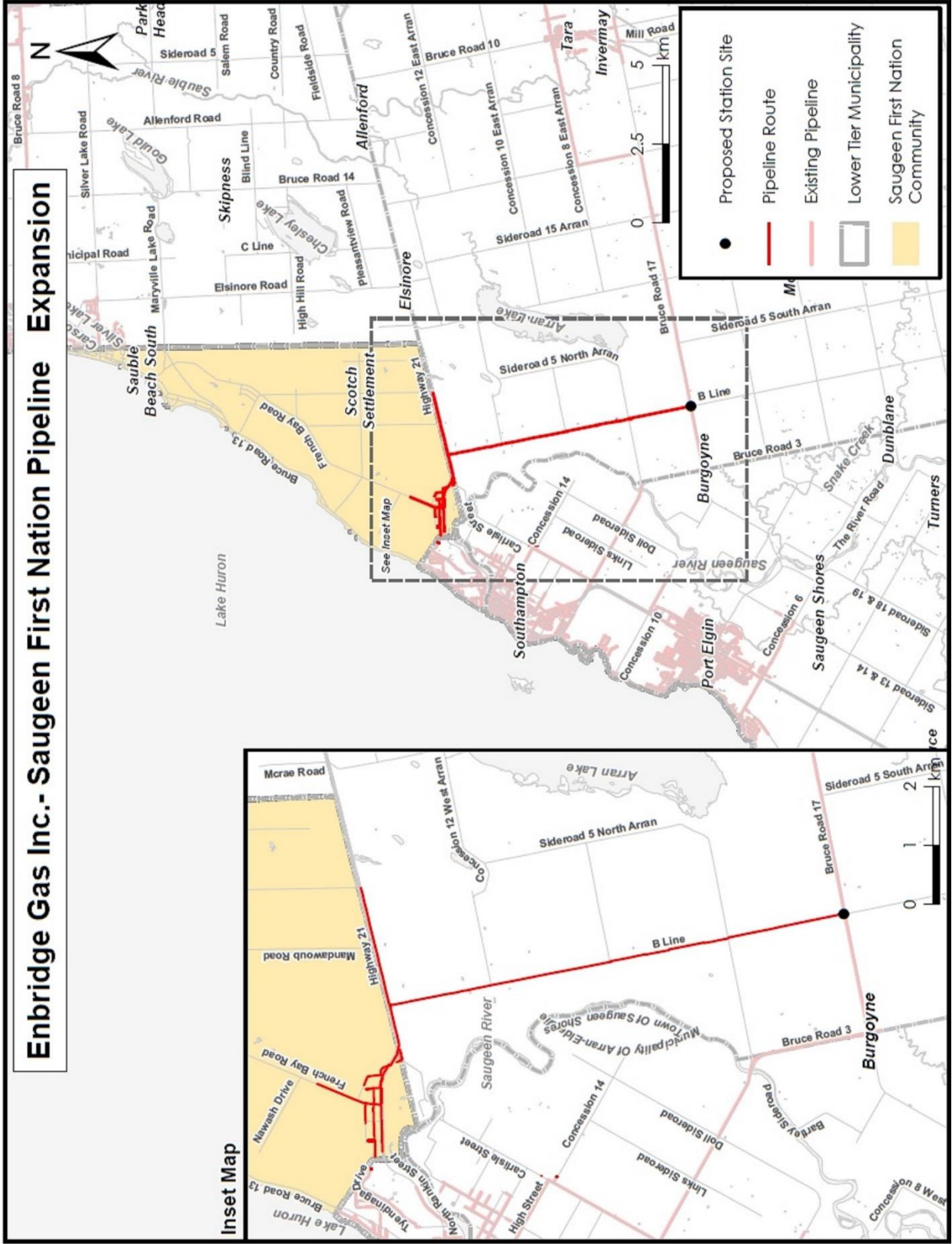
ONTARIO ENERGY BOARD

Original Signed By

Christine E. Long
Registrar and Board Secretary

SCHEDULE A
DECISION AND ORDER
ENBRIDGE GAS INC.
EB-2019-0187
FEBRUARY 6, 2020

Enbridge Gas Inc.- Saugeen First Nation Pipeline Expansion



SCHEDULE B
DECISION AND ORDER
ENBRIDGE GAS INC.
EB-2019-0187
FEBRUARY 6, 2020

SCHEDULE B – CONDITIONS OF APPROVAL

Application under Section 90 of the OEB Act

Enbridge Gas Inc.

EB-2019-0187

1. Enbridge Gas Inc. (Enbridge Gas) shall construct the Project as described in the application using the NPS 2 design and restore the land in accordance with the OEB's Decision and Order in EB-2019-0187 and these Conditions of Approval.
2. (a) Authorization for leave to construct shall terminate 12 months after the decision is issued, unless construction has commenced prior to that date.
(b) Enbridge Gas shall give the OEB notice in writing:
 - i. of the commencement of construction, at least ten days prior to the date construction commences;
 - ii. of the planned in-service date, at least ten days prior to the date the facilities go into service;
 - iii. of the date on which construction was completed, no later than 10 days following the completion of construction; and
 - iv. of the in-service date, no later than 10 days after the facilities go into service.
3. Enbridge Gas shall implement all the recommendations of the Environmental Report filed in the proceeding, 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 to OEB-approved construction or restoration procedures. Except in an emergency, Enbridge 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. Enbridge Gas shall file, in the proceeding where the actual capital costs of the project are proposed to be included in rate base, a Post Construction Financial Report, which shall indicate the actual capital costs of the project and shall provide an explanation for any significant variances from the cost estimates filed in this proceeding, including contingency usage.
6. Both during and after construction, Enbridge Gas shall monitor the impacts of construction, and shall file with the OEB one paper copy and one electronic (searchable PDF) version of each of the following reports:

(a) A post construction report, within three months of the in-service date, which shall:

- i. provide a certification, by a senior executive of the company, of Enbridge Gas' adherence to Condition 1;
- ii. describe any impacts and outstanding concerns identified during construction;
- iii. describe the actions taken or planned to be taken to prevent or mitigate any identified impacts of construction;
- iv. include a log of all complaints received by Enbridge Gas, including the date/time the complaint was received, a description of the complaint, any actions taken to address the complaint, the rationale for taking such actions; and
- v. provide a certification, by a senior executive of the company, that the company has obtained all other approvals, permits, licenses, and certificates required to construct, operate and maintain the proposed project.

(b) A final monitoring report, no later than fifteen months after the in-service date, or, where the deadline falls between December 1 and May 31, the following June 1, which shall:

- i. provide a certification, by a senior executive of the company, of Enbridge Gas' adherence to Condition 3;
- ii. describe the condition of any rehabilitated land;
- iii. describe the effectiveness of any actions taken to prevent or mitigate any identified impacts 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; and 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 Natural Gas (or the Manager of any OEB successor department that oversees leave to construct applications).

SCHEDULE C
DECISION AND ORDER
ENBRIDGE GAS INC.
EB-2019-0187
FEBRUARY 6, 2020

SCHEDULE C – SYSTEM EXPANSION SURCHARGE

Application under Sections 36 of the OEB Act

Enbridge Gas Inc.

EB-2019-0187

In keeping with the OEB's Generic Decision and its decision in Union Gas' 2015 Project, the following is a summary of terms and conditions that apply to OEB's Decision and Order in EB-2019-0187:

- Enbridge Gas can apply a \$0.23/m³ surcharge for up to 40 years to its existing approved rates 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 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 rebasing