Ontario Energy Board | Commission de l'énergie de l'Ontario

DECISION AND ORDER

EB-2019-0183

ENBRIDGE GAS INC.

Applications for approval of Owen Sound Reinforcement Project Leave to Construct & Rate M17

BEFORE: **Susan Frank**
Presiding Member

Lynne Anderson
Member

Emad Elsayed
Member

April 9, 2020

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1. INTRODUCTION AND SUMMARY

This is the Decision and Order of the Ontario Energy Board (OEB) regarding an application filed by Enbridge Gas Inc. (Enbridge Gas) on August 29, 2019.

Enbridge Gas applied under section 90(1) of the Ontario Energy Board Act, 1998 (OEB Act) for an order granting leave to construct approximately 34 km of 12-inch diameter natural gas transmission pipeline, located in the Municipality of West Grey and the Township of Chatsworth in the County of Grey (Project). The Project is needed to provide additional transmission capacity to: i) supply EPCOR Southern Bruce Gas Inc. with natural gas to serve the area of South Bruce (Southern Bruce Project)[1] and ii) to supply the demand growth in Enbridge's Owen Sound System in-franchise area. The Project also includes upgrades to the existing Durham Station and a new valve/receiver site at the northern terminus.

Enbridge Gas also applied under section 97 of the OEB Act for an approval of the forms of easement agreement related to the construction of the Project.

Construction of the Project is scheduled to commence in the Spring of 2020 and be placed in service on November 1, 2020.

The application also includes a request for a new Rate M17 firm transportation service for natural gas distributors. The service is in response to a request by EPCOR Natural Gas Limited Partnership (ENGLP) to serve the Southern Bruce Project. Enbridge Gas is also seeking approval to modify the applicability of the existing Rate M9 and Rate T3 rate schedules for gas distributors to limit their applicability to existing natural gas distributors.

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

The OEB examined all aspects of Enbridge Gas's leave to construct application and is satisfied that the Project is in the public interest. Leave to construct 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 proposed forms of agreement that Enbridge Gas has offered or will offer to affected landowners.

The OEB further approves the proposed Rate M17 subject to certain modifications that are further explained in this Decision and Order. Enbridge Gas's proposal to limit the applicability of the Rate M9 and Rate T3 rate schedules to existing gas distributor customers is also granted.

[1] South Bruce Project was approved by the OEB in EB-2018-0263

2. THE PROCESS

The OEB issued a Notice of Hearing on October 1, 2019. The Notice was published in newspapers on October 10, 2019.

The City of Kitchener, ENGLP, Energy Probe Research Foundation (Energy Probe), Federation of Rental-housing Providers of Ontario (FRPO), Industrial Gas Users Association (IGUA), School Energy Coalition (SEC), Six Nations Natural Gas Company Limited (SNNG) and TransCanada PipeLines Limited (TransCanada) applied for intervenor status. Energy Probe, FRPO, IGUA and SEC also sought eligibility to apply for cost awards. All parties that applied for intervenor status were approved as intervenors. In addition, Energy Probe, FRPO, SEC and IGUA were deemed eligible to apply for an award of costs pursuant to the OEB's Practice Direction on Cost Awards.

On November 1, 2019, the OEB issued Procedural Order No. 1 setting the schedule for written interrogatories. According to the schedule, OEB staff and intervenors filed interrogatories by November 14, 2019. Enbridge Gas's responses to interrogatories were filed by the November 28, 2019 deadline.

On December 6, 2019, ENGLP filed a letter requesting that the OEB allow ENGLP to file expert and company evidence. On December 12, 2019, the OEB issued Procedural Order No. 2 setting the procedural schedule for filing the evidence, discovery on the ENGLP evidence and written submissions on that evidence.

ENGLP filed written expert and company evidence on January 10, 2020. Enbridge Gas, OEB staff and intervenors filed written interrogatories on ENGLP's evidence on January 24, 2020. ENGLP filed responses to the interrogatories on February 7, 2020. Enbridge Gas filed its Argument-in-Chief on February 21, 2020. In accordance with the procedural schedule, OEB staff and intervenors filed final written submissions by March 6, 2020. Enbridge Gas filed its reply submission on March 20, 2020. This completed the record for the proceeding.

3. THE LEAVE TO CONSTRUCT APPLICATION: THE PUBLIC INTEREST TEST

This application for leave to construct a natural gas pipeline was filed under section 90(1) of the OEB Act. It also includes a request under section 97 of the OEB Act for an approval of the forms of easement agreements related to the construction of the proposed pipeline.

Section 96(1) of the 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, project alternatives, project cost and economics, environmental impacts, land matters (including forms of easement agreements), and Indigenous consultation. This decision covers each of these public interest considerations.

4. NEED AND ALTERNATIVES

Enbridge Gas stated that the need for the Project is:

1. To supply 10,648m^3/hr of natural gas over the next ten years for the Southern Bruce Project starting in the winter of 2020/2021.[2]
2. To supply Enbridge Gas's in-franchise incremental customer demand of 13,864 m3/hr over the next four years starting in the winter of 2021/2022.[3]

The total anticipated growth in demand from ENGLP and from Enbridge Gas's in-franchise contract and general service customers is 24,512 m3/hr from 2019 to 2024. Enbridge Gas also stated that ENGLP's 2019 requirements were partially offset by 2,508 m3/hr load turned back in 2019 by a customer served by the Owen Sound System. This reduction of load was a result of Enbridge Gas's reverse open season.

Enbridge Gas's Owen Sound System pipeline has sufficient capacity to address demand for the Southern Bruce Project in year one (2019).

In order to meet ENGLP's full requirement of 10,648 m3/hr over a 10- year period, Enbridge Gas proposes to construct the Project with a November 1, 2020 in-service date. ENGLP is seeking an initial contract term with ENGLP of 30 years.

The Project is also required to meet Enbridge Gas's forecast incremental demand for natural gas in the areas served by the Owen Sound System. Based on Enbridge Gas's current forecasts for its in-franchise load growth, absent the demand from ENGLP the Owen Sound System would have required reinforcement in 2022 in order to meet the winter demands of 2022/23. Enbridge Gas indicated that as a result of the request by ENGLP, the timing of the Project was accelerated as ENGLP requires incremental capacity for the winter of 2020/2021. Enbridge Gas's forecast total in-franchise growth over this period is nearly 7,800 customers.[4]

Enbridge Gas used the Facilities Business Plan (FBP) approach to identify the infrastructure expansion projects needed to support the forecasted growth within specific geographic areas. The Project is included in the Owen Sound FBP for the Union South rate zone. The Owen Sound FBP consists of 11 smaller service areas.[5] Enbridge Gas explained that the FBP approach identifies future growth areas with the objective to plan for the least cost facilities and provide a long-term security of supply for

[2] EPCOR's Rates Application EB-2018-0265 and EPCOR's Leave to Construct South Bruce Expansion Project EB-2018-0263
[3] Enbridge Gas response to ENGLP's IR # 3
[4] Enbridge Gas Evidence Exhibit E, Tab 3, Schedule 3: Customer Forecast Summary
[5] Enbridge Gas Evidence Exhibit E, Tab 3, Schedule 3: Customer Forecast Summary

the system. Enbridge Gas customer attachment forecast over the 2019 to 2023 period for the Project is based on historical attachments and local knowledge.

Energy Probe expressed concerns about the accuracy of basing the forecast on ten-year historical averages. Energy Probe submitted that inaccuracies in the forecast may impact the volumes and the hourly load forecast, and the calculation of the capital contribution by ENGLP. Energy Probe argued that Enbridge Gas "…could have easily done a survey of potential commercial and industrial customers which it failed to do." [6]

Alternatives to the Proposed Project

Enbridge Gas considered three alternatives (including the Project), after rejecting ten other alternatives earlier in the process. Enbridge Gas stated that Demand Side Management (DSM) was not considered as a viable alternative to the Project because, in Enbridge Gas's view, results of DSM programs would not be sufficient to offset demand and would not materialize in adequate time to affect the in-service date of the Project.

Enbridge Gas identified the Project in its Utility System Plan and Asset Management Plan filed with the OEB.[7]

OEB staff submitted that the preferred alternative is acceptable as it is the lowest cost alternative to meet the need for additional capacity.

Findings

The forecast demand for this Project relied on ENGLP's ten-year demand forecast and Enbridge Gas's projected growth in in-franchise customer attachments. No party questioned the need for this Project. OEB accepts that the Project is needed.

Enbridge Gas examined 13 alternatives including the proposed Project. Enbridge Gas noted, and the OEB accepts, that the length of pipe and diameter recommended provide three-years growth capacity equivalent to the other alternatives but at the most cost effective price.

The OEB accepts the Project as the best alternative based on the evidence demonstrating that it is the least cost option that meets the needs.

[6] Energy Probe Written Submission, March 6, 2020, page 3
[7] EB-2018-0305, Exhibit C 1, Schedule 1, page 174 (AMP ID 863)

5. PROJECT COSTS AND ECONOMICS

Enbridge Gas estimated the total costs of the Project to be approximately $69 million including interest during construction and indirect overheads.[8]

An economic analysis was completed in accordance with the OEB's E.B.O. 134 report on Economic Tests for Transmission Pipeline Applications and associated Filing Guidelines (together referred to as E.B.O. 134).9 The Stage 1 economics shows an overall Profitability Index (PI) of 0.31 and a net present value (NPV) of negative $37.7 million. A PI of 0.31 indicates that the revenues from rates are not sufficient to recover the costs of the Project.

Since the Project does not have a PI of 1.0, in accordance with E.B.O. 134, Enbridge Gas completed a Stage 2 and 3 analyses to demonstrate that the Project is in the public interest. Stage 2 includes energy cost savings resulting from the use of natural gas instead of other fuels. The NPV in Stage 2 is estimated to be in the range of $ 269 million to $ 405 million. The Stage 3 analysis adds other public interest considerations resulting from the Project. The NPV estimate in Stage 3 is $ 71 million. The total NPV for Stages 1 to 3 for the Project is in the range of $302 to $ 438 million.

Enbridge Gas stated that the projected revenues from Rate M17 service to ENGLP is insufficient to recover ENGLP's share of the costs of the Project and therefore, it requires a Contribution in Aid of Construction (CIAC) of $5.34 million from ENGLP. According to Enbridge Gas, this amount is based on ENGLP's proportionate share of the Project. The issue of CIAC is addressed below.

Energy Probe noted its concern that Enbridge Gas used "courtesy bids" for the construction cost estimates as the contractor is the same entity as the party awarded the construction contract "…would have an incentive to provide a high estimate in order to maximize profit."[10]

Energy Probe was also concerned with Enbridge Gas applying the same 15% contingency rate to labour and to materials costs. Energy Probe's position was that, according to industry practice, contingency on materials should be 7.5% or half of the contingency for labour as the risks for materials costs are lower.[11]

OEB staff noted that Enbridge Gas used appropriate methodology set in E.B.O. 134 to evaluate the Project's economics and expressed no concerns with the results of the E.B.O. 134 assessment of Project's economics.

[8] Enbridge Gas Evidence, Exhibit D, Tab 2, Schedule 3, page 1: Project Costs and Exhibit E, Tab 4, Schedule 1:Total Estimated Project Cost
[9] Enbridge Gas Evidence, Exhibit D/Tab 2, Schedule 3, pages 2-7: Project Costs and Economics
[10] Energy Probe Written Submission, March 6, 2020, page 8
[11] Energy Probe Written Submission, March 6, 2020, page 9

Findings

The OEB accepts Enbridge Gas's determination that the total NPV for Stages 1 to 3 analyses of the Project is in the range of $302 million to $438 million. Regarding Energy Probe's concern that the cost estimate for the Project might not be accurate, the OEB finds it extremely unlikely that a change in the cost estimate could be of such a magnitude that the Project economics would fail the E.B.O. 134 test.

The OEB accepts that the Project economic analysis satisfies the OEB's E.B.O. 134 test.

6. ENVIRONMENTAL MATTERS

AECOM completed an Environmental Report (ER) for Enbridge Gas identifying environmental and socio- economic features along the route of the Project. Mitigation measures to reduce the effects of construction are included in the ER. The ER was prepared in accordance with the OEB's Environmental Guidelines for Location, Construction and Operation of Hydrocarbon Pipelines in Ontario [7th Edition, 2016] (OEB Environmental Guidelines).

According to Enbridge Gas, environmental impacts related to the construction of the Project are minimal as the majority of the pipeline will be located within existing road allowances.

On August 31, 2018, Enbridge Gas distributed the ER to the members of the Ontario Pipeline Coordinating Committee (OPCC), affected conservation authorities, municipalities and other stakeholders for review and comments.

A summary of the comments received in the OPCC review and Enbridge Gas's responses is on the record. The record was updated on November 27, 2019[12] and shows that there are no unresolved issues or concerns raised in the ER review.

An archaeological assessment (AA) was completed by a licensed archaeological firm along the pipeline route, as recommended in the ER and as required by the applicable provincial regulations. Stage 1, Stage 2 and Stage 3 of the AA survey reports were completed and submitted to the Ministry of Heritage, Sport, Tourism and Cultural Industries (MHSTCI). Enbridge Gas, in its reply submission, confirmed that it has received acceptance of all the AA reports submitted to the MHSTCI (three Stage 2 reports and one Stage 3 report).[13]

OEB staff submitted it has no concerns with the environmental aspects of the Project, given that Enbridge Gas is committed to implementing the mitigation measures set out in the ER and did not object to the draft Conditions of Approval proposed by OEB staff. These Conditions of Approval, among other things, would require Enbridge Gas to certify that it has obtained all approvals, permits, licences, and certificates required to construct, operate and maintain the Project.

[12] Enbridge Gas Updated Evidence Exhibit E, Tab 7, Schedule 2, November 27, 2019: Summary of OPCC Comments and Enbridge Gas response to OEB Staff IR # 16
[13] Enbridge Gas Reply Submission, March 20, 2020, para 9, page 4

Findings

The OEB finds that the environmental impacts related to the construction of the Project are minimal as the majority of the pipeline will be located within existing road allowances. Enbridge Gas has committed to follow the mitigation measures identified by AECOM in their Environmental Report to reduce the effects of construction. The record shows that the OPCC has no outstanding concerns.

An archaeological assessment was completed by a licensed archaeological firm along the pipeline route. Enbridge Gas confirmed that it received acceptance of all reports submitted to the MHSTCI, inclusive of three Stage 2 reports and one Stage 3 report.

The OEB finds that Enbridge Gas has satisfied the OEB Environmental Guidelines requirements.

7. INDIGENOUS CONSULTATION

The OEB Environmental Guidelines set out procedures and protocols for Indigenous consultation and the duty to consult on natural gas pipeline projects that are subject to the OEB's approval.

Enbridge Gas is required to adhere to these procedures and protocols and to file the required documentation with the OEB as part of its evidence in support of its application. On March 11, 2017, Enbridge Gas provided a description of the Project to the Ontario Ministry of Energy Northern Development and Mines (MENDM) and received a delegation letter from MENDM on April 20, 2017 (Delegation Letter) delegating the procedural aspects of the duty to consult to Enbridge Gas.

The Delegation Letter identified the following Indigenous communities to be engaged and consulted about the Project:

- Saugeen First Nation
- Chipewas of Nawash Unceded First Nation
- Métis Nation of Ontario Great Lakes Métis Council
- Historic Saugeen Métis

On August 29, 2019, Enbridge Gas filed the Indigenous Consultation Report (ICR) with MENDM and requested that MENDM determine if the procedural aspects of the duty to consult for the Project have been sufficient. The ICR was filed with the application.

On November 19, 2019, Enbridge Gas received a letter of opinion from MENDM stating that "...the procedural aspects of consultation undertaken by Enbridge to date for the purposes of the Ontario Energy Board's Leave to Construct approval for the Owen Sound reinforcement project is satisfactory." [14]

MENDM also noted in the letter of opinion that it expects Enbridge Gas to continue the Indigenous consultation with the affected communities and inform MENDM of any additional "…rights-based concerns/issues arise".[15]

OEB staff submitted that Enbridge Gas appears to have made efforts to engage with affected Indigenous groups and no concerns that could materially affect the Project have been raised through its consultation to date. Enbridge Gas also confirmed its commitment to continuous consultation with the Indigenous communities potentially affected by the Project.

[14] Enbridge Gas Inc. Updated Evidence, November 27, 2019, Exhibit E, Tab 8, Schedule 3 MENDM Review Summary
[15] Enbridge Gas Evidence, Exhibit E, Tab 8, Schedule 3, updated November 27, 2019, MENDM Letter dated November 19,2019, page 1

Findings

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

While the OEB is not bound to accept the determination of MENDM, the OEB finds MENDM's letter of November 19, 2019 to be adequate evidence that Enbridge Gas's 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 MENDM through direct contact with the potentially affected Indigenous communities.

The OEB finds that Enbridge Gas's 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.

8. LAND MATTERS

The Project will be located mostly within road allowances in the Municipality of West Grey, the Township of Chatsworth and the County of Grey.

Enbridge Gas will require approximately 3.5 acres of permanent easements, which it has already acquired.

Temporary land use (TLU) rights to facilitate easier and more efficient installation of the pipeline along road allowances will also be required. Enbridge Gas requires a total of 7.815 hectares or 19.31 acres of TLU rights. Signed agreements have been secured for 41 of 55 properties where TLU rights are required. Enbridge Gas is actively negotiating with the affected landowners for the remaining 14 properties where TLU rights are required.[16] Options for temporary land rights will be obtained from the directly affected landowners. Enbridge Gas noted that it will make efforts to obtain these rights and if unable to obtain these rights it can still construct the pipeline within the road allowances.

Enbridge Gas obtained two fee simple land right purchases it needs for the proposed new valve/receiver site, and the expansion of the existing Durham Station.[17] Enbridge Gas is committed to continue to meet with landowners to further discuss and resolve whatever questions or concerns they may have.

According to section 97 of the OEB Act, “In an application under section 90, 91 or 92, leave to construct shall not be granted until the applicant satisfies the Board that it has offered or will offer to each owner of land affected by the approved route or location an agreement in a form approved by the Board.” Enbridge Gas filed a copy of its Form of Permanent Easement and form of Temporary Land Use Agreement for the land rights required and noted that these forms were previously approved by the OEB in the following proceedings: 2016 Dawn Parkway Expansion[18], Panhandle Reinforcement Project[19] and Kingsville Transmission Reinforcement[20].[21]

[16] Enbridge Gas Response to OEB Staff IR # 15 (b)
[17] Enbridge Gas Inc. Argument-in-Chief, para 71, pages 21-22
[18] EB-2014-0261
[19] EB-2016-0186
[20] EB-2018-0013
[21] Enbridge Gas Inc. response to OEB Staff IR # 15 (d)

Findings

The Project will be located mostly within road allowances in the Municipality of West Grey, the Township of Chatsworth and the County of Grey. The OEB approves the forms of land agreements that have been or will be offered to owners of land affected by the route or location of the Project under Section 97 of the OEB Act.

9. CONDITIONS OF APPROVAL FOR THE LEAVE TO CONSTRUCT

Section 23 of the OEB Act permits the OEB, when making an order, to impose conditions of approval as it considers appropriate.

OEB staff proposed a number of conditions of approval for the Project based on conditions approved by the OEB for similar projects.

Enbridge Gas accepted the proposed conditions of approval with the exception of a condition that requires a minimum 10-day OEB notice period prior to construction. Enbridge Gas requested that the 10-day period be removed. Enbridge Gas argued that the construction should commence expeditiously at any time, without a 10-day wait period, after leave to construct has been granted so that it can meet an in-service date of November 1, 2020.

Findings

Enbridge Gas agreed with all of the standard conditions proposed by OEB staff with one exception. Enbridge Gas proposed a modification of condition 2(b)(i)[22] to remove the "ten days" requirement and place no other time constraint on filing the notice of construction start. The revised condition would be consistent with the OEB's recent decision and order in the Southern Bruce Project.[23] It reflects the urgency to start the construction of the Project to meet the scheduled in-service date. The OEB approves the proposed conditions of approval including the one revision requested by Enbridge Gas.

In addition to the conditions proposed by OEB staff, the OEB includes a condition that Enbridge Gas shall obtain all necessary approvals, permits, licences, certificates, agreements and rights required to construct, operate and maintain the Project.

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

[22] As numbered in the list of the draft conditions proposed by OEB Staff in the Interrogatory # 1
[23] EB-2018-0263

10. COST ALLOCATION

This chapter includes summaries of submissions by the parties and the OEB's findings on the issues of:

- Customer Specific Station Costs
- Capital Contribution in Aid of Construction (CIAC)

10.1 Customer Specific Station Costs

Enbridge Gas constructed a customer station (i.e. the Dornoch customer station) to facilitate the connection of ENGLP's facilities to the Enbridge Gas Owen Sound System. This customer station is the interconnection point with ENGLP and provides for measurement and delivery of the volumes at the appropriate pressure.

ENGLP paid $4.02 million for the customer station, the entire cost of the facility. ENGLP submitted that its share of the customer station costs should be $0 and the OEB should order Enbridge Gas to refund the amount.[24] ENGLP maintained that the requirement to pay for the customer-specific station is inconsistent with how Enbridge Gas has recovered the cost of other meter station interconnects.

OEB staff, Energy Probe, SEC and IGUA submitted that ENGLP should pay the full costs of the Dornoch customer station as the customer station was built for the sole purpose of serving ENGLP. If ENGLP does not pay for some or all of the customer station, Enbridge Gas customers would be paying for the costs in their rates and in effect would be subsidizing ENGLP's customers. OEB staff and IGUA argued that the OEB's Generic Community Expansion decision determined that existing customers should not subsidize community expansion projects and therefore a subsidy from existing Enbridge Gas customers was not appropriate. FRPO submitted that contribution for the customer station should be based on the OEB's E.B.O. 188 Guidelines.

ENGLP argued that in order to determine the CIAC amount for the Project, the customer station costs should have been included in the three stage economic test. OEB staff submitted that if the customer station costs are included in the capital costs of reinforcement of the Owen Sound System, ENGLP would only pay a portion of the customer-specific station costs (based on 18% allocation of the Project). Considering that ENGLP is the sole driver and beneficiary of the customer station, OEB staff argued that ENGLP should bear the entire cost of the facilities.

[24] ENGLP Response to OEB staff IR# 8 (b)

ENGLP argued that Enbridge Gas had not applied the practice of charging for customer-specific stations consistently. Prior to the amalgamation of Enbridge Gas Distribution (EGD) and Union Gas Limited (Union Gas), Union Gas received approval to construct a variety of new facilities at its Parkway site, including a new Union-Enbridge interconnection which included a measurement station and related facilities. The meter station costs were added to the overall total project costs. ENGLP argued that its customer station facility is similar to the sole purpose facility built to serve EGD in the example above.

SEC and IGUA disagreed with ENGLP. These parties noted that the project referred to in ENGLP's argument was part of a broader transmission system that brought gas from the Dawn-Parkway System to the TC Energy System. They argued that the project entailed natural gas deliveries to a transmission system which in turn provided volumes to a large number of in-franchise and ex-franchise customers. Enbridge Gas in reply added that ENGLP was incorrect to assume that its customer specific station with no other interconnections is comparable to a transmission interconnection station which connects the Dawn-Parkway System to Enbridge Gas's Albion Pipeline transmission line. Interconnections to other transmission systems are required to facilitate the movement of gas supply into and across the Dawn-Parkway System and are thus integral to the system itself.

SEC agreed with ENGLP that, based on the proposed Rate M17, ENGLP will be paying twice for meter station costs; once through the CIAC of $4.02 million and again through the proposed Rate M17. ENGLP submitted that the Rate M17design is flawed in that it duplicates the recovery of the revenue requirement associated with metering costs. According to ENGLP, the Dawn-Parkway Easterly Transmission Charge, which forms the basis of the Rate M17, already includes the recovery of the revenue requirement associated with capital and operating costs of metering at interconnects and yet Enbridge Gas requires ENGLP to pay the upfront capital costs of the Dornoch metering station. SEC submitted that if ENGLP is allocated the full costs of the Dornoch metering station, it should not have to pay the indirect allocation of pooled meter station costs that it will not use. Accordingly, SEC submitted that the allocation of costs to the Rate M17should be revised to remove all pooled meter station costs.

ENGLP submitted that in the event that the OEB agrees with Enbridge Gas that ENGLP should pay for the customer-specific station costs, then at its next rebasing application, Enbridge Gas should be required to adjust the Dawn-Parkway Easterly Transmission Charge and remove all interconnection (metering) costs. Enbridge Gas should recover the related capital and operations and maintenance (O&M) costs in a monthly charge in the same manner as it proposes for the Rate M17.

Findings

The OEB agrees with Enbridge Gas, IGUA and OEB staff submissions that the Dornoch customer station is for the specific benefit of ENGLP customers and will be exclusively used to provide service to ENGLP customers. It is therefore appropriate that ENGLP pays for the customer-specific station costs. The OEB's principle of beneficiary pays is appropriately applied in this instance and not E.B.O. 134 as submitted by ENGLP. The applicability of E.B.O. 134 is discussed in more detail in the subsection that follows.

The capital cost of the Dornoch station would not be included in Enbridge Gas's rate base and therefore not included in the currently proposed Rate M17. SEC expressed a concern that there are potentially other pooled meter station costs that ENGLP would not use included in the Rate M17. To the extent that there are costs related to meters that have no use or benefit to ENGLP, the OEB agrees that these costs should be removed from the Rate M17. Enbridge Gas shall confirm as part of the draft rate order process the nature of any pooled metering costs in the Rate M17 . Any pooled metering costs that provide no use or benefit to ENGLP shall be removed.

The OEB finds that it is appropriate for ENGLP to have paid in full for the costs of the Dornoch station.

10.2 Contribution in Aid of Construction

The Project is required to meet ENGLP's demands to serve the South Bruce expansion area as well as to meet Enbridge Gas's forecast incremental demand for natural gas in the areas served by the Owen Sound System.

ENGLP's requirements account for 18% of the incremental capacity provided by the Project[25]. ENGLP's proportionate share was determined based on the portion of total incremental capacity which will be used to serve ENGLP.[26] Given the significant, specific and identifiable nature of ENGLP's contribution to the need and timing of the Project, Enbridge Gas is seeking a contribution in aid of construction (CIAC) in the amount of $5.34 million to bring ENGLP's allocation of the Project to a PI of 1.0.[27] However, the PI of the portion of the Project that will serve the in-franchise load growth of Enbridge Gas will still remain at 0.31.

ENGLP disagreed with the proposed CIAC on the grounds that its demand is not the sole driver of the Project, that the E.B.O. 134 test has not been appropriately applied, and that there would be no undue burden on existing Enbridge Gas customers if the

[25] Enbridge Gas Inc. response to ENGLP IR # 2 (a) ii-iv
[26] Enbridge Gas Argument-in-Chief, February 21, 2020, page 6, para 19
[27] Enbridge Gas Argument-in-Chief, February 21, 2020, pages 4-5, para 15

CIAC is not charged. ENGLP submitted that it should not be required to pay any CIAC for the Project.

ENGLP in its submission referred to section 7.29 of E.B.O. 134 that states:

> The Board finds that a contribution in aid of construction should be required for those projects where the sole purpose is to supply gas into a new area and where the evaluation process demonstrates an undue burden on existing customers.

ENGLP noted that Enbridge Gas determined that only 18% of the Project is intended to provide service to ENGLP. ENGLP submitted that the request for a CIAC failed to meet the criteria of section 7.29.

Enbridge Gas in reply argued that ENGLP was adopting a literal interpretation of E.B.O. 134 that ignored the broader regulatory context and public interest. Enbridge Gas dismissed ENGLP's argument that because community expansion was not the sole purpose of the Project, it cannot be subject to a CIAC under E.B.O. 134. Enbridge Gas submitted that the proportion to which the CIAC applies is solely to the benefit of ENGLP and its community expansion customers. Enbridge Gas agreed with IGUA's submission that if ENGLP's position regarding the application of E.B.O. 134 is accepted, then transmission investment costs would always be recovered from all transmission customers even where a specific identifiable customer or group of customers benefit from all or part of the transmission investment.

ENGLP also argued that if a CIAC is not charged, there would be no undue burden on existing customers. Enbridge Gas customers would pay a subsidy of less than 0.1% of their annual bill, which does not meet the definition of "undue burden" according to ENGLP.

OEB staff submitted that if ENGLP does not pay a CIAC, the incremental bill impact for a legacy Union Gas South residential customer is expected to be $0.12 per year.[28] OEB staff noted that the OEB's Generic Community Expansion Decision[29] was clear that a subsidy from existing customers to fund community expansion was not appropriate. Accordingly, OEB staff submitted that ENGLP should pay the CIAC. IGUA made a similar argument noting that even minimal cross-subsidies should be avoided as per the OEB's Community Expansion Policy.[30]

[28] Enbridge Gas Inc. response to ENGLP IR # 2 (j)
[29] EB-2016-0004
[30] *ibid*

Enbridge Gas added that the Generic Community Expansion Decision found that community expansion customers should be served by stand-alone rates that reflect the costs to serve customers in the newly serviced areas, and which are not subsidized through rates paid by customers in existing service areas. Enbridge Gas submitted that ENGLP was ignoring the regulatory context that led to the opportunity for ENGLP to serve the Southern Bruce area as a utility. ENGLP's ability to serve the Southern Bruce area arose from the OEB's competitive process. Enbridge Gas argued that ENGLP cannot now ignore the parameters (no subsidy from existing customers) that gave rise to its service.

Energy Probe argued that ENGLP customers should pay a CIAC, but it should be based on 50% of the cost of facilities south of Dornoch and be calculated to meet a PI of 1.0.

SEC argued that Enbridge Gas's approach to require a CIAC from ENGLP is unfair as Enbridge Gas does not charge a CIAC from its own community expansion customers. SEC cited the recently OEB approved Enbridge Gas application for the Saugeen First Nation community expansion project which will be served off the Owen Sound System and will benefit from the proposed Project. SEC noted that no CIAC is required from or allocated to these new community expansion customers, presumably because it is an Enbridge Gas project. SEC submitted that the rigidity of applying the E.B.O. 134 policy may unfairly harm a new entrant in Ontario, which is ENGLP. SEC argued that until the OEB reviews its E.B.O. 134 policy to better reflect cost causation principles, Enbridge Gas should not be allowed to deviate from existing policy in a way that treats its downstream customers any differently than those of another distributor, especially one that is a competitor. ENGLP made a similar argument noting that no provisions were made to directly allocate the incremental costs associated with increasing the capacity of the Project to Enbridge Gas's Saugeen community expansion project.

Enbridge Gas in reply submitted that the Saugeen project is different; it is a distribution connection to bring natural gas to residents and businesses north of Southampton in Bruce County.. Enbridge Gas indicated that the Saugeen Project forecasts connection of 89 customers after ten years while ENGLP's distribution project anticipates connecting 5,278 customers over a ten-year period and is the primary driver for the timing of the Project. Enbridge Gas further noted that the Saugeen Project will receive a CIAC from the Provincial Government under Bill 32 and connecting customers will pay for the costs of the project through the System Expansion Surcharge.

Enbridge Gas further disagreed with ENGLP's view that the application of E.B.O. 134 is inconsistent, as various Dawn-Parkway expansion projects did not include a CIAC. Enbridge Gas submitted that Dawn-Parkway expansion projects are different as they created cross-franchise transportation capacity for several North American shippers, both in-franchise and ex-franchise. This facilitates a more robust and utilized Dawn-

Parkway System which increases the overall liquidity of the system, creating long-term benefits for all Enbridge Gas customers through a geographically proximate and competitive market.

Enbridge Gas submitted that the CIAC was consistent with regulatory principles and ENGLP should pay it.

ENGLP also argued that under Enbridge Gas's proposal, ENGLP customers would pay for both the incremental costs for its expansion capacity as well as a portion of the incremental costs required to serve Enbridge Gas's in-franchise customers. ENGLP submitted that since the costs of the Project will be recovered through Other Transmission demand costs and the Project has a PI of 0.31, all customer rates that include an allocation of Other Transmission costs will increase to cover the shortfall. ENGLP will therefore be required to pay a CIAC for its portion of the capacity in addition to an increase in the Rate M17 in order to bring the remainder (82%) of the Project to a PI of 1.0.

Other Transmission costs are a component of rate design that includes the recovery of all transmission assets (excluding the Dawn Parkway, Panhandle and St. Clair System) used to serve in-franchise customers in the Union South rate zone. OEB staff argued that the recovery of Other Transmission costs was a rate design matter and submitted that these costs were allocated to all customers in the Union South rate zone in proportion to design day demands and this included Rate M17.

Enbridge Gas in reply agreed with OEB staff and noted that Other Transmission costs are allocated to all Union South in-franchise customers including the Rate M17 class.

Findings

Section 7.29 of E.B.O 134 is specific to system expansions. The Project serves both system expansion and system reinforcement objectives, with the former objective being performed solely for ENGLP's purposes. Therefore, the OEB concludes that ENGLP should pay for its proportionate share of the Project. The OEB does not agree with ENGLP's suggestion that where the financial impact on the current customers is small, there is no need to make capital contributions. To the extent that the project proponent can separately identify the costs associated with the system expansion, these costs must be paid by the party that benefits. The principle of beneficiary pays underlies the need for capital contributions.

The OEB also notes that, in the OEB's Generic Community Expansion decision, the OEB determined that, "The communities that receive the benefits will be paying the costs”.[31] The proposed Project is benefiting the communities to be served by ENGLP, therefore the OEB concludes that it is appropriate for a proportionate share of the costs to be paid for through the capital contribution.

The concern raised by Energy Probe that the cost estimate might be overstated impacting the magnitude of the capital contribution was not expressed by any other party. Energy Probe also proposed an alternative approach to sharing the costs rather than the 18% used by Enbridge Gas. Since the 18% was not challenged by other parties, the OEB sees no reason to adopt Energy Probe’s recommended split.

SEC submitted that the capital contribution unfairness of Enbridge Gas’s approach is most evident when it has not required a similar CIAC to be paid by its own community expansion customers when they also benefit from upstream reinforcements. The example used to demonstrate this concern is the community expansion project to serve the Saugeen First Nations. Enbridge Gas forecast 30 customers in the first year and 89 customers by year 10 of the Saugeen First Nations project. ENGLP anticipated connecting 5,278 customers over a ten-year period. The current transmission system was seen as sufficient to connect the Saugeen First Nations. Furthermore, according to Enbridge Gas, the rates paid by Saugeen project customers include amounts dedicated to the recovery of transmission costs including making a contribution toward the recovery of the Owen Sound Line costs.

As Enbridge Gas indicated “regardless of whether Enbridge Gas or ENGLP had been selected to serve South Bruce, the selected gas distributor should be required to bear the same costs of reinforcement.”[32] The OEB agrees that when a system reinforcement is required for an expansion, customers in the expanding service territory (not existing customers) should be required to contribute appropriate costs for that reinforcement, regardless of whether they are customers of Enbridge Gas or another gas distributor. This is consistent with the OEB’s Generic Community Expansion decision that determined that it is not appropriate to enable more expansions with a subsidy from existing customers, and that “…it would not be appropriate to require existing customers to pay for a portion of any expansion.”[33] The OEB concludes that this would include existing customers of Enbridge Gas subsidizing new customers of Enbridge Gas.

The OEB finds that, if ENGLP’s position regarding E.B.O. 134 means no capital contributions was uniformly applied, it would effectively result in transmission investment costs always being recovered from all transmission customers even where a specific identifiable customer or group of customers benefits.

[31] Generic Community Expansion Decision with Reasons, EB-2016-0004, November 17, 2016, page 4
[32] Enbridge Gas Argument-in-Chief, February 21, 2020, page 8, para 26.
[33] Generic Community Expansion Decision with Reasons, EB-2016-0004, November 17, 2016, page 4

SEC and IGUA submitted that if ENGLP is directly allocated 18% of the Project costs, it should not also be required to pay some amount of the remaining 82%, included in the Rate M17. According to OEB staff and supported by Enbridge Gas, the cost of the Project will be categorized as Other Transmission costs and allocated to in-franchise customers in the Union South rate zone in proportion to design day demands. OEB staff submitted that this treatment is consistent with the manner in which costs are recovered from all other customers for the use of the same assets. As the use of these assets is shared and not identifiable by customer class, Enbridge Gas uses an allocation of costs based on cost causality principles. On that basis, the OEB understands that ENGLP will be allocated a portion of the 82% of the Project costs. Enbridge Gas shall confirm as part of the draft rate order process, that the portion of the 82% that is attributed to ENGLP has use or benefit to ENGLP. Alternatively, Enbridge Gas may confirm that no portion of the 82% will be allocated to ENGLP.

According to Enbridge Gas, ENGLP's requirements account for 18% of the capacity provided by the Project requiring a capital contribution of $5.34 million. The purpose of the requested CIAC is to ensure that the selected gas distributor pays its appropriate portion of the cost of upstream reinforcement. The CIAC requested corresponds directly to the load requirements of ENGLP within the context of the overall load provided for by the Project.

The OEB approves the required capital contribution of 18% or $5.34 million from ENGLP.

11. RATE M17

The Rate M17 service as proposed by Enbridge Gas for natural gas distributors includes transportation from Dawn, Kirkwall or Parkway (the points of receipt) to the customer's transfer point(s) with Enbridge Gas (the delivery area). The proposed service under the Rate 17 is a firm point-to-point transportation service between an applicable receipt point and the delivery area. Under the proposed Rate M17, natural gas distributors will manage their own gas supply arrangements and competitive storage services which are available within the market at market-based rates.

The proposed rate design of the Rate M17 class includes the following components:

1. A monthly customer charge to recover fixed customer-related costs associated with having the gas distributor attach to Enbridge Gas's System.
2. Firm monthly transportation demand charges for each of the transportation paths (Dawn, Kirkwall or Parkway) to the delivery area.
3. Commodity charges to recover incremental Dawn-Parkway compressor fuel and Unaccounted for Gas associated with providing the transportation service.
4. Overrun charges for quantities that exceed the Rate M17 shipper's contract demand.

Natural gas distributors in the Union South rate zone receive service under existing rate classes M9 and T3. Customers under these rate classes receive bundled delivery services or a semi-bundled storage and transportation service. Both rate classes have access to cost-based storage services. Customers under these rate classes received service prior to the OEB issuing the Natural Gas Electricity Interface Review (NGEIR) Decision wherein the OEB determined that new ex-franchise customers of the former Union Gas would not be eligible for cost-based storage.[34] ENGLP is the first natural gas distributor post NGEIR that has requested service from Enbridge Gas. Enbridge Gas therefore proposed a new rate class (Rate M17) that caters to natural gas distributors post NGEIR, as the existing rate classes for natural gas distributors (M9 and T3) are inappropriate, according to Enbridge Gas.

ENGLP and other intervenors submitted that the proposed Rate M17 constitutes undue discrimination and would not result in just and reasonable rates.

[34] NGEIR Decision with Reasons, November 7, 2006, pages 82-83

To determine if the Rate M17 is appropriate, the OEB has assessed three areas of contention:

- Cost-Based Storage Services
- Daily Load Balancing Service
- Monthly Customer Charge

11.1 Cost-Based Storage Services

The NGEIR Decision determined that access to cost-based storage should be predicated on whether or not a utility has sufficient access to competitive storage options. In that Decision, the OEB determined that it will cease regulating the prices charged for all storage services offered by the former Union Gas and EGD to new in-franchise customers and to customers outside their franchise areas. [35] The OEB reserved the existing storage capacity of the former EGD (as of November 2006) and 100 PJ of Union Gas's storage capacity for in-franchise customers at cost-based rates.[36]

ENGLP expressed a preference to take service under the existing rate classes M9 and Rate T3 that were available to gas distributors at the time of the NGEIR Decision. These rate classes provide bundled or semi-bundled services and include cost-based storage services. ENGLP opposed the Rate M17 mainly because it has no access to cost based load-balancing and storage services.

Enbridge Gas submitted that in-franchise storage requirement for the winter of 2019/2020 was 97.1 PJ in the Union rate zone and therefore, it had minimal cost-based excess storage available. Enbridge Gas argued that it would not be just or reasonable to allocate the remaining cost-based storage of the Union Gas rate zones to an ex-franchise customer such as ENGLP, as the 100 PJ was clearly set aside to serve the growth requirements of in-franchise customers.

OEB staff argued that ENGLP should not have access to cost-based storage services. The EGD rate zone currently has 126.1 PJ of in-franchise storage requirement of which 26.4 PJs is purchased at market based rates. In other words, EGD in-franchise customers pay a blended storage rate that includes cost-based and market-based storage. OEB staff and SEC submitted that it would not be fair to provide ENGLP (an ex-franchise customer) with cost-based storage when the current cost-based storage capacity is insufficient to meet the in-franchise needs of Enbridge Gas. OEB staff argued that the NGEIR Decision was clear that future ex-franchise customers of EGD

[35] EB-2005-0551, NGEIR Decision with Reasons, November 7, 2006, page 3
[36] NGEIR Decision with Reasons, November 7, 2006, pages 82-83

and Union Gas post-NGEIR, will have to pay market-based rates for storage. IGUA made similar arguments and suggested that ENGLP's new expansion customers should be served under market-based storage.

Energy Probe submitted that storage is a natural resource and should in theory be available to all Ontario gas customers under cost-based rates. Energy Probe argued that the NGEIR Decision does not reflect the current status of the natural gas distribution utility industry in Ontario and the OEB should consider a new generic proceeding to review the issues addressed in the NGEIR proceeding. Pending that review, Energy Probe submitted that the OEB should deviate from the NGEIR policy and prorate cost-based storage to all natural gas distributors in Ontario on a volumetric basis. Enbridge Gas in reply submitted that Energy Probe has ignored the significance of the NGEIR Decision and Enbridge Gas is merely following the determinations made in that decision.

FRPO opposed the proposed Rate M17 arguing that approval of the rate would provide Enbridge Gas with a competitive advantage for future contested natural gas service areas. FRPO argued that if Enbridge Gas had been granted the franchise it would have served the new customers with cost-based storage.

FRPO further argued that ENGLP will be served exclusively by Enbridge Gas and therefore ENGLP is an embedded utility served by the host utility (Enbridge Gas) with which it competed to provide natural gas to the Southern Bruce area. FRPO noted that the distinguishing factor that the OEB used in the NGEIR Decision for the continuation of cost-based storage was access to alternatives. As a result, City of Kitchener, EPCOR Aylmer (formerly Natural Resources Gas Limited), Six Nations Natural Gas and Gazifère were determined to be eligible for cost-based storage. FRPO noted that the common factor amongst all these utilities was that they were embedded distributors to a host (EGD for Gazifère and Union Gas for the others). As embedded distributors, these utilities would have no interconnection to another pipeline that could potentially provide them another storage or load balancing service. FRPO submitted that the embedded logic also applies to ENGLP. FRPO further noted that the OEB at the time of the NGEIR Decision could not have considered or foreseen that the largest virgin territory not served by natural gas (Southern Bruce) and surrounded by Union Gas, would be served by a new entrant.

Enbridge Gas in reply noted that the OEB in the NGEIR proceeding did not render its decision based on whether a customer was an embedded distributor; rather the OEB found that the determination should be based on whether or not the distributor in question has access to competitive storage options. Enbridge Gas submitted that FRPO was introducing a concept that was not considered in the NGEIR Decision and the OEB should give no weight to the embedded distributor argument of FRPO.

Enbridge Gas dismissed FRPO's suggestion that when the OEB set aside cost-based storage for growth in the former Union Gas franchise, they may have included virgin territory such as Southern Bruce. Enbridge Gas argued that if the OEB believed that an ex-franchise distribution customer should have access to cost-based storage reserved for in-franchise customers, it would have explicitly stated that in the NGEIR Decision. Accordingly, Enbridge Gas submitted that FRPO's speculation should be dismissed.

Findings

The OEB agrees with Enbridge Gas's submission that by requiring ENGLP to obtain market-based storage, Enbridge Gas is not discriminating, but is rather directly applying the regulatory policy set out in NGEIR. Rate M17 provides the same access to competitive storage options that was available to legacy Enbridge Gas Distribution, Gaz Métro, and Utilities Kingston at the time of the NGEIR Decision.

Under NGEIR, in-franchise customers of the legacy Union Gas have 100 PJ of cost based storage. Union's in-franchise storage requirement for the winter of 2019/2020 was 97.1 PJ. Accordingly, there is very little additional cost-based storage available for its in-franchise customers in the Union rate zones. OEB staff, SEC and IGUA submitted that the Rate M17 should not include any allocation of cost-based storage. The OEB agrees.

The OEB finds that it is consistent and reasonable to require Rate M17 customers, including ENGLP, to utilize market-based storage for their storage needs.

11.2 Daily Load-Balancing Service

Under the proposed Rate M17, ENGLP is required to load balance on a daily basis. This means that the volumes nominated and received by Enbridge Gas, and the actual volumes measured and redelivered by Enbridge Gas to ENGLP at Dornoch must be equal on a daily basis.

Since it is impossible to forecast the precise requirements of customers on a daily basis, ENGLP argued that there will always be a daily imbalance as the gas balance for any day can only be determined after the end of a gas day. ENGLP claimed that the proposed Rate M17 transportation agreement between ENGLP and Enbridge Gas does not allow for an imbalance to exist. Since ENGLP can only know of the imbalance at the end of a day, ENGLP argued that it not possible for any party other than Enbridge Gas to resolve any imbalances for that day. In other words, end of day balancing cannot work competitively and only Enbridge Gas can provide this service. FRPO made a similar argument. ENGLP accordingly submitted that it should receive daily load balancing on a cost basis. ENGLP was concerned that if it is required to enter into a market-based daily balancing storage arrangement with Enbridge Gas, it would be subject to unregulated monopoly pricing.

Enbridge Gas disagreed with the views of ENGLP. In its argument-in-chief and reply submission, Enbridge Gas clarified that an imbalance can exist under the terms of Rate M17. Enbridge Gas referred to Schedule B of the Rate M17 rate schedule which acknowledges that the receipts of gas by Enbridge Gas and deliveries may not always be exactly equal, and parties will work together to reduce imbalances. Enbridge Gas further noted that as part of the Rate M17 terms and conditions, ENGLP is required to execute a Facilitating Agreement (HUB Agreement) that would allow for end-of-day imbalances to temporarily exist. This would provide the time for imbalances to be identified, quantified, and allocated to the appropriate storage contract. Enbridge Gas also confirmed that third parties can and do provide market based daily balancing services. As a result, Enbridge Gas argued that ENGLP's characterization that a daily balancing service cannot be provided by a party other than Enbridge Gas is not accurate.

IGUA in its submission noted that there was insufficient evidence to establish if there is a competitive market in which EPCOR could procure daily balancing services. If the OEB determines that Enbridge Gas is the only possible provider of competitive daily load balancing service, then the OEB should reject the proposed rate design and require Enbridge Gas to offer ENGLP cost-based daily load balancing services.

ENGLP and FRPO disagreed with Enbridge Gas's argument that the Interruptible Services HUB agreement creates the legal framework for end of day balancing. ENGLP and FRPO noted that the balancing storage service available through the Interruptible Services HUB Contract is interruptible, with Enbridge Gas having the right at its sole discretion to provide a 48-hour notice to require ENGLP to bring its balancing account to zero by the end of the 48-hour period. If any balance remained it would be subject to Enbridge Gas's Market Price Service Schedule, which prices would be considered punitive and can change on 30-day notice. ENGLP and FRPO further noted that the HUB services are not available to balance previous day's imbalances since it is a nominated, confirmed and scheduled service for flow the following gas day and EPCOR needs to balance for the same day. Accordingly, ENGLP and FRPO both submitted that ENGLP should receive service under the existing M9 or T3 rate classes.

Enbridge Gas in reply noted that ENGLP and FRPO had misunderstood the purpose of the HUB Agreement. Enbridge Gas submitted that the HUB Agreement is not to maintain a cumulative balance over time; it is a short-term mechanism which allows market participants such as ENGLP or its contractor to correct imbalances through injections to, and withdrawals from, storage. Such an agreement is not intended to carry imbalances for multiple days, so a 48-hour requirement to balance is appropriate according to Enbridge Gas. Accordingly, Enbridge Gas submitted that the arguments of FRPO and ENGLP should be rejected.

Enbridge Gas in its original Rate M17 proposal[37] included a limited balancing agreement (LBA). The LBA is consistent with the agreements Enbridge Gas has to balance daily loads in the Union North and EGD rate zones served by TC Energy's Canadian mainline. Enbridge Gas indicated that ENGLP rejected the proposal for two reasons.

The first reason was that the LBA required daily nominations for volumes to be delivered at Dornoch. As ENGLP has now engaged a third party for gas supply planning and nomination services, Enbridge Gas submitted that ENGLP has the appropriate capabilities in place to facilitate daily nominations.

Second, according to Enbridge Gas, ENGLP maintained that the fees for the LBA above the first tier were not cost based and were based solely on TC Energy's rate to provide such a service on TC Energy's System, and had no relation to Enbridge Gas's cost of providing the service on its system. Enbridge Gas in its argument-in-chief clarified that the probability of incurring a fee under the LBA is minimal. Using a peak load of approximately 212,960 m^3 in year ten of ENGLP's system expansion, Enbridge Gas estimated that the nomination for consumption on the day would need to be incorrect by an amount greater than 25% of the estimated peak daily load in order to incur fees. On a cumulative basis, ENGLP would need to be out of balance by an amount in excess of 50% of this estimated forecast peak load. Accordingly, Enbridge Gas argued that the LBA service would provide ENGLP sufficient flexibility to manage its daily load balancing requirements. Enbridge Gas further indicated that it was amenable to the LBA or daily balancing service.

OEB staff in its submission agreed with Enbridge Gas's argument on daily balancing services and submitted that ENGLP should have the flexibility to obtain the daily balancing service as proposed in this application or the LBA that was proposed originally by Enbridge Gas.

[37] The original proposal was made in EB-2018-0244 which was later withdrawn by Enbridge Gas

Findings

The balancing of supply and demand are basic functions required to administer a gas distribution business. The OEB finds that it is reasonable to expect a natural gas distributor to undertake this function using internal expertise or a third-party service provider.

IGUA and SEC submitted that Enbridge Gas should be directed to include in the Rate M17 an Enbridge Gas cost based regulated daily balancing service, and that this is a service that can only properly be provided by the connecting pipeline operator. The OEB disagrees. The imbalance can be allocated to a market-based storage contract and the imbalance can be addressed through storage injections or withdrawals. Enbridge Gas has proposed to allow for end-of-day imbalances to temporarily exist under a Facilitating Agreement with Enbridge Gas. This would provide the time for imbalances to be identified, quantified, and allocated to the appropriate storage contract. ENGLP would be given 48 hours to correct that imbalance which should be sufficient.

According to Enbridge Gas, the LBA in its original application was rejected by ENGLP as the fees for the LBA were not cost based and were based solely on TC Energy's rate to provide such a service on TC Energy's System. Enbridge Gas noted that the Enbridge Gas rate zone relies on the same LBA with TC Energy and it is an industry standard for the purpose of balancing daily loads between natural gas system operators within Ontario. As an alternative to Enbridge Gas's current proposal, Enbridge Gas has indicated that it would be willing to offer ENGLP either the original LBA or the approach in the current application. The OEB agrees that ENGLP should have the option of an LBA under the same terms as those provided to the Union North and EGD rate zones.

Enbridge Gas submitted that just as it is required to manage gas supply for its distribution customers, ENGLP should also manage its own gas supply. The OEB agrees with Enbridge Gas and will not require Enbridge Gas to include cost based daily balancing service in the M17 Rate. To facilitate the drafting of the Rate M17 terms and conditions, including ENGLP's preferred load balancing option, ENGLP is to inform the OEB and Enbridge of its preferred load balancing approach.

11.3 Monthly Customer Charge

Enbridge Gas proposed a fixed monthly customer charge to recover the costs associated with having the gas distributor attach to Enbridge Gas's System. The customer-related costs primarily include the revenue requirement for the rate base (net of any CIAC) and O&M costs associated with the Dornoch customer station. Enbridge Gas proposed a unique charge for each customer that takes service under Rate M17, specific to the delivery area. This approach recognizes that cost differences can exist amongst different natural gas distributors based on the specific facilities required to provide service, and whether the customer-related costs are paid in part or in whole by a CIAC. The proposed monthly charge to be paid by ENGLP is $1,998.71, based on estimated annual customer-related O&M costs of approximately $24,000. The proposed monthly charge recognizes that ENGLP has paid for the required customer station facilities in whole by a CIAC. Enbridge Gas confirmed that the concept of a customer-specific monthly charge and the proposed calculation is consistent with the treatment of customers under Rate T3.

ENGLP argued that the monthly charge for the Rate M17 service should be $0. ENGLP argued that the former Union Gas's past practice regarding interconnections with EGD was to recover customer specific meter charges (both capital and O&M costs) as part of the transmission charge, which is recovered from all customers using the Dawn-Parkway System. ENGLP submitted that the Firm Monthly Transportation Demand Charge of the M17 Rate is substantially based on the Dawn-Parkway charge indicating that the M17 Rate included the recovery of the capital and O&M costs for meter connections. ENGLP was of the opinion that if a monthly charge is included in the M17 Rate, it would result in a double charge for metering.

OEB staff in its submission noted that ENGLP was the sole driver and beneficiary of the customer station and the monthly customer charge recovered the O&M costs of the customer station. There was no evidence that these costs (capital and O&M costs of the customer station) had been included to derive the Firm Monthly Transportation Demand Charge. OEB staff argued that the monthly customer charge was based on the specific facilities required to provide service and was in line with cost causality principles.

Findings

The proposed monthly customer charge under Rate M17 is designed to recover the O&M expenses for the Dornoch metering station. No other metering costs are included in the proposed monthly customer charge. The proposed monthly customer charge would be specific to any distributor taking service pursuant to the M17 Rate class as metering costs can vary significantly across customers. Enbridge Gas submitted that the treatment of customer-specific station costs in Rate M17 would be the same as in Rate T3. Rate T3 customers also pay a customer specific monthly charge based on the assets (metering station) that are required to serve them.

The OEB agrees that the monthly customer charge is appropriate and is intended to recover the annual O&M costs of the customer station. The monthly customer charge is in keeping with cost causality principles. The OEB approves the monthly customer charge.

12. PROPOSED MODIFICATIONS TO RATE M9 AND RATE T3 RATE SCHEDULES

In accordance with the NGEIR Decision, Enbridge Gas proposed to grandfather the existing gas distributors taking service under the Rate M9 and Rate T3 rate schedules and limit the applicability of the rate schedules to existing gas distributors. Should an existing gas distributor customer elect to switch from Rate M9 or Rate T3 to Rate M17, Enbridge Gas proposed that they will no longer meet the applicability requirements of their prior service (of Rate M9 or T3).

ENGLP submitted that the availability provisions to the existing M9 and T3 services should not be changed. Potential customers of this service should have the option to choose the service that best meets their requirements. Forcing new distributors to use the M17 Rate will make it virtually impossible to compete to serve new areas according to ENGLP.

OEB staff agreed that new gas distributors should not be eligible for Rate M9 or Rate T3 service as the NGEIR Decision was clear that ex-franchise customers of the former Union Gas post NGEIR are not eligible for cost-based storage services. However, OEB staff opposed the proposal of existing customers losing their eligibility to re-take service under Rate M9 or Rate T3 if they decide to switch. OEB staff argued that existing gas distributors were grandfathered under the NGEIR Decision and to arbitrarily terminate their eligibility undermines the determinations that were made in the NGEIR Decision. Enbridge Gas in reply did not specifically respond to OEB staff’s views on this matter.

Findings

The OEB finds that new natural gas distributors should not have access to cost-based storage consistent with the NGEIR Decision. Therefore, these new gas distributors are not eligible for Rate M9 or Rate T3 service.

Existing customers are not required to switch to the M17 Rate. An existing customer is permitted to switch to the new M17 Rate at its own discretion. However, to avoid the administrative costs of the potential continuous switching between Rate M17 and their current rate, the OEB orders that existing customers who choose to switch to Rate M17 will lose their eligibility to re-take service under Rate M9 or Rate T3.

13. 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 34 kilometres of 12-inch diameter natural gas pipeline in the Municipality of West Grey and the Township of Chatsworth, as described in its application.

2. The OEB approves the proposed forms of land use agreements that Enbridge Gas Inc. has offered or will offer to each owner of land affected by the approved pipeline route for the Project.

3. Leave to construct is subject to Enbridge Gas Inc. complying with the Conditions of Approval set out in Schedule B.

4. ENGLP shall file a letter with the OEB and copy all parties, indicating its preferred load balancing approach, by **April 17, 2020**.

5. Enbridge Gas Inc. shall file with the OEB, and forward to all intervenors, a draft rate order with the revised Tariff of Rates and Charges including the terms and conditions of Rate M17, as determined in the OEB's findings in this Decision by **May 1, 2020**.

6. Intervenors and OEB staff may file comments on the draft rate order with the OEB and forward them to Enbridge Gas Inc. on or before **May 11, 2019**.

7. Enbridge Gas Inc. shall file with the OEB and forward to the intervenors responses to any comments on its draft rate order on or before **May 20, 2020.**

8. Eligible intervenors shall file with the OEB and forward to Enbridge Gas Inc. their respective cost claims in accordance with the OEB's *Practice Direction on Cost Awards* on or before **June 4, 2020**.

9. Enbridge Gas Inc. shall file with the OEB and forward to intervenors any objections to the claimed costs of the intervenors on or before **June 11, 2020**.

10. If Enbridge Gas Inc. objects to any intervenor costs, those intervenors shall file with the OEB and forward to Enbridge Gas Inc. their responses, if any, to the objections to cost claims on or before **June 18, 2020**.

11. Enbridge Gas Inc. shall pay the OEB's costs incidental to this proceeding upon receipt of the OEB's invoice.

All materials filed with the OEB must quote the file number, EB-2019-0183, be made in searchable / unrestricted PDF format electronically through the OEB's web portal at https://pes.ontarioenergyboard.ca/eservice. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at http://www.oeb.ca/OEB/Industry. If the web portal is not available parties may email their documents to the address below.

NOTE: The OEB is temporarily waiving the paper copy filing requirement until further notice. All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Zora Crnojacki, at zora.crnojacki@oeb.ca and OEB Counsel, Michael Millar, at michael.millar@oeb.ca

DATED at Toronto April 9, 2020

ONTARIO ENERGY BOARD

Original Signed By

Christine E. Long
Registrar and Board Secretary

SCHEDULE A

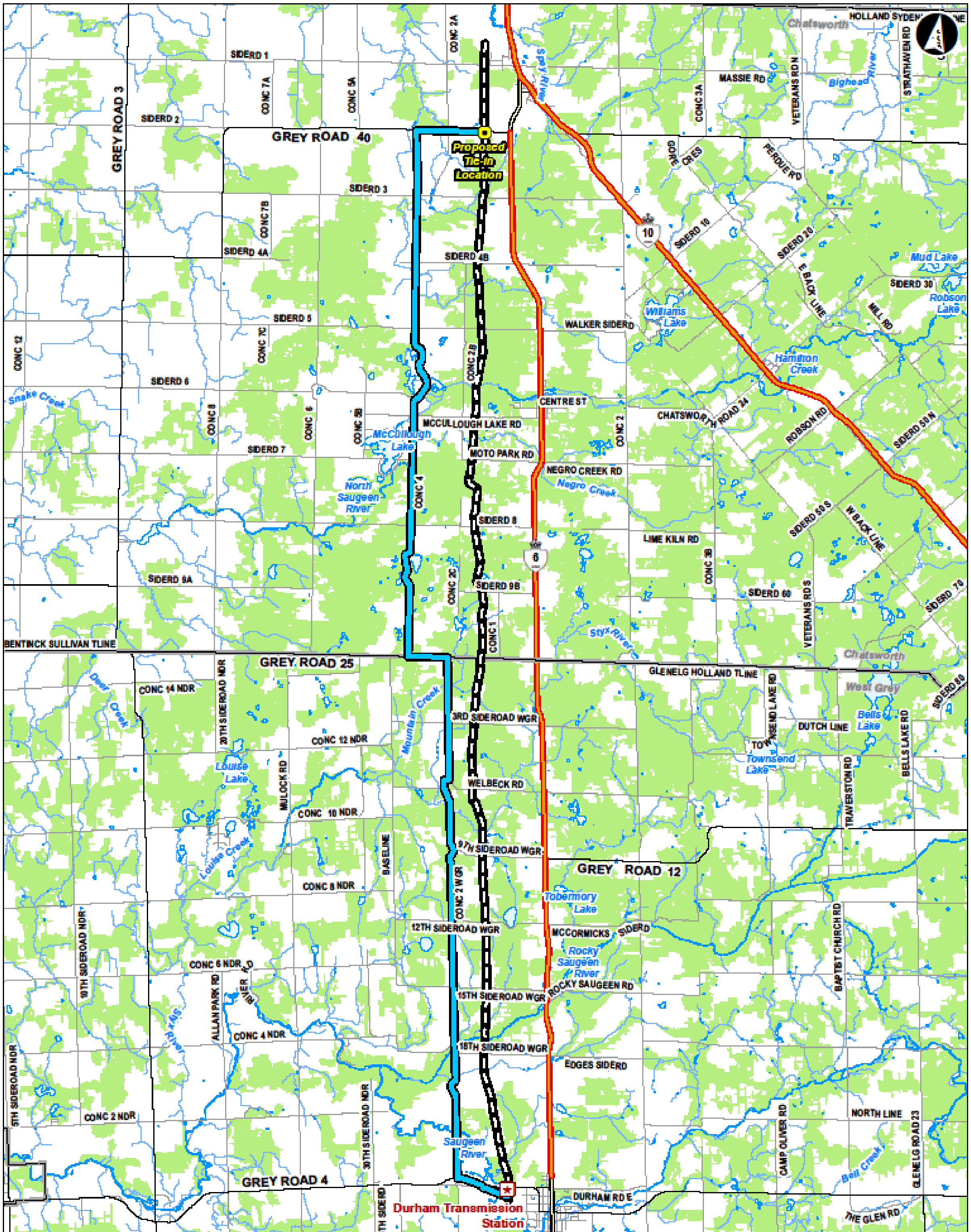
DECISION AND ORDER

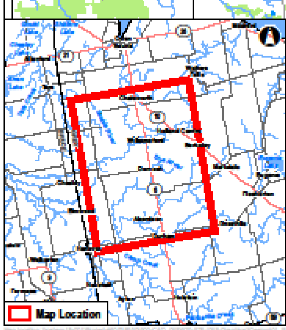
ENBRIDGE GAS INC.

EB-2019-0183

APRIL 9, 2020

MAP - GENERAL LOCATION OF THE PROJECT





Infrastructure Layers

- Proposed Transmission Station Location
- Proposed Tie-in Location
- Preferred Pipeline Route
- Existing NPS 10 Union Gas Owen Sound Line

Base Layers

- Municipal Boundary
- Freeway
- Highway
- Major Road
- Local Road
- Watercourse
- Significant Woodland

Contains information licensed under the Open Government Licence Ontario and the Grey County Open Data Licence.

Owen Sound Phase 4 Reinforcement Project

Preferred Pipeline Route

0 0.5 1 2 3 4 5 6
Kilometres
Datum: NAD 1983 UTM Zone 17N

Mar, 2018	1:100,000 *when printed 11"x17"	Data Sources: County of Grey, MNRF, MMAH, Union Gas
P#:60538950	V#:01	

AECOM

Figure: 3-2

SCHEDULE B

DECISION AND ORDER

ENBRIDGE GAS INC.

EB-2019-0183

APRIL 9, 2020

CONDITIONS OF APPROVAL S. 90

Leave to Construct Application
under Section 90 of the OEB Act

Enbridge Gas Inc.
EB-2019-0183

Conditions of Approval

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-2019-0183 and these Conditions of Approval.

2. Enbridge Gas shall obtain all necessary approvals, permits, licences, certificates, agreements and rights required to construct, operate and maintain the Project.

3. (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 of the following:

   i. The commencement of construction, 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 10 days following the completion of construction
   iv. The in-service date, no later than 10 days after the facilities go into service

4. 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.

5. 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.

6. Concurrent with the final monitoring report referred to in Condition 7(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.

7. 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 certification, by a senior executive of the company, of Enbridge Gas's adherence to Condition 4

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

v. Include the 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

8. 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 purpose of these Conditions of Approval shall be the OEB's Manager of Natural Gas Applications (or the Manager of any OEB successor department that oversees natural gas leave to construct applications).