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BY EMAIL

April 16, 2020

Ms. Christine E. Long
Board Secretary and Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4

Dear Ms. Long:

**Re: Enbridge Gas Inc.
North Bay Community Expansion Project
OEB Staff Submission
OEB File No. EB-2019-0188**

In accordance with Procedural Order No. 1, please find attached the OEB staff submission for the above proceeding. This document has been sent to Enbridge Gas Inc. and to all other registered parties to this proceeding.

Enbridge Gas Inc. is reminded that its reply submission is due by April 27, 2020.

Yours truly,

Original Signed By

Azalyn Manzano
Advisor, Natural Gas

Encl.

c. Enbridge Gas Inc., Environmental Defence, Pollution Probe



North Bay Community Expansion Project

Enbridge Gas Inc.

EB-2019-0188

OEB Staff Submission

April 16, 2020

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 Bay (Northshore and Peninsula Roads)¹. Union Gas had been 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 “rate protection” funding to construct facilities in each of the three previously named communities under a program enacted through the new *Access to Natural Gas Act, 2018*.

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. The OEB subsequently granted leave to construct and approved an SES for the Saugeen First Nation portion on February 6, 2020³.

On January 14, 2020, Enbridge Gas filed an application for the North Bay portion of the previously combined project (Application). Enbridge Gas is seeking leave to construct under section 90 of the OEB Act approximately 27 km of small diameter pipeline (NPS 1.25-inch to 4-inch) and a pressure regulating station to serve approximately 394 potential customers (Project). The Project is located in the City of North Bay, along the North shoreline of Trout Lake, between the take off point on Enbridge Gas’s existing distribution system and the Northshore and Peninsula Roads area. Enbridge Gas states that its Project is sized to meet the ten-year forecast in the Project area.

Enbridge Gas is also seeking section 36 approval of a SES applicable to the Project. In particular, Enbridge Gas is seeking approval of the same SES that was previously approved by the OEB in Union Gas’ 2015 Community Expansion Project⁴. This would

¹ EB-2018-0142

² EB-2019-0139, application filed on April 24, 2019

³ EB-2019-0187, application filed on October 17, 2019

⁴ EB-2015-0179

result in Enbridge Gas applying a \$0.23/m³ surcharge for up to 40 years to its existing approved rates (as applicable) for all customers that will be served by the proposed Project.

Enbridge Gas is proposing a ten-year rate stability period. During this period, it is OEB staff's understanding that Enbridge Gas will bear the risk of variances in its customer attachment forecast⁵. This approach is consistent with the OEB's Decision in the generic proceeding on system expansion (Generic Decision)⁶. Following the ten-year rate stability period, Enbridge Gas expects to bring forward to be included in rate base any cost overruns at the next rebasing/incentive rate making proceeding⁷. Enbridge Gas also expects that any revenue shortfalls or surpluses associated with this Project will be eligible for recovery or reduction in base rates at the end of the rate stability period⁸.

The estimated capital cost of the Project is approximately \$10.1 million. The Project has been awarded up to \$8.7 million of "rate protection", for a net investment by Enbridge Gas of \$1.4 million. The results of a discounted cash flow analysis on Enbridge Gas's net investment show that the Project has a Profitability Index (PI) of 1.0.

Construction of the Project is scheduled to begin in May 2020 with an in-service date of November 2020. Enbridge Gas requests a decision from the OEB by May 2020.

2 PROCESS

Enbridge Gas filed the Application on January 14, 2020. The OEB issued a completeness letter on January 27, 2020, and a Notice of Hearing on February 4, 2020. The intervention period ended on February 26, 2020.

Procedural Order No. 1 was issued on March 2, 2020. Environmental Defence and Pollution Probe were granted intervenor status and are eligible to apply for cost awards. The Procedural Order provided for interrogatories and submissions on the Application. OEB staff, Environmental Defence and Pollution Probe filed written interrogatories by March 12, 2020. Enbridge Gas filed interrogatory responses on March 27, 2020. Enbridge Gas filed its argument-in-chief on April 6, 2020.

⁵ Application Exhibit B, Tab 1, Schedule 1, pages 5 and 6, and Applicant's responses to Environmental Defence interrogatory 2(b)

⁶ EB-2016-0004

⁷ Applicant's response to Environmental Defence interrogatory 2(b)

⁸ Applicant's response to Environmental Defence interrogatory 3(b)

Enbridge Gas's reply submission is due by April 27, 2020.

3 SUBMISSIONS

OEB staff is satisfied that environmental, Indigenous consultation and land matters have been adequately addressed to date. However, OEB staff has two key concerns with the Application: 1) the estimated total cost of the Project appears to be significantly higher when compared to similar projects, and 2) the Project appears to be overbuilt. Each of these concerns are further addressed below.

3.1 Need for the Project

OEB staff submits that the proposed Project is needed, as it has the potential to increase energy options and reduce energy costs for local consumers, and may help to improve the local economy of the Northshore and Peninsula Roads area.

Enbridge Gas states that residents and business owners in the northeast quadrant of the City of North Bay, specifically the Northshore and Peninsula Roads areas, have requested natural gas service from Enbridge Gas. Potential natural gas customers of the Project currently rely on propane, electricity, fuel oil and wood to meet their energy needs⁹. Compared to these fuels, natural gas is a less expensive energy source¹⁰. The proposed rates including the SES allow for annual savings when converting a typical home from competing primary fuel types¹¹.

The Project area has a population of approximately 1,140. There are currently a total of 391 existing residential dwellings and three commercial establishments in the Project area which could potentially be served with natural gas. Enbridge Gas is forecasting that a total of 134 customers (126 existing residential, three existing small commercial, and five existing seasonal customers) will be attached by year ten of the Project. The ten-year attachment forecast is 34% of the ultimate potential attachments. Enbridge Gas's customer attachment forecast is reproduced in Table 1 below.

⁹ Applicant's response to OEB staff interrogatory 5, Attachment 1, page 2

¹⁰ Applicant's response to OEB staff interrogatory 5, Attachment 1, pages 9 to 11

¹¹ Ibid.

Table 1: Ten-year Customer Connection Forecast

Classification	Year										Total	Ultimate Potential	Total Attachments % Potential
	1	2	3	4	5	6	7	8	9	10			
Residential Conversion	34	30	12	8	6	8	7	8	7	6	126	341	37%
Residential Seasonal	1	1	1	1	1	0	0	0	0	0	5	50	10%
Small Commercial	1	1	1	0	0	0	0	0	0	0	3	3	100%
Total	36	32	14	9	7	8	7	8	7	6	134	394	34%

The sizing and costs of the Project are based on what is referred to above as the ultimate potential customer attachment forecast (i.e. based on attaching 394 customers) as opposed to the ten-year customer attachment forecast of 134 customers.

Enbridge Gas also noted that the project will further the Ontario Government's desire to have natural gas distribution service made available to communities that are currently not served to help support greater consumer choice, economic growth and new jobs¹².

3.2 Proposed Facilities and Alternatives

OEB staff has no issues or concerns with Enbridge Gas's proposed facilities, its assessment of alternative routings, or its rationale for selecting the preferred routing. However, OEB staff submits that Enbridge Gas has not sufficiently justified the need for the proposed design (i.e. to meet the ultimate potential customer attachment forecast of 394 customers) as opposed to the minimum design (i.e. to meet the ten-year customer attachment forecast of 134 customers) and the costs of the Project as further discussed below.

The proposed Project facilities would consist of approximately 27 kilometres of polyethylene distribution pipelines (6.8 km of NPS 1.25, 12.6 km of NPS 2, and 7 km of NPS 4) to service the area. The proposed pipeline will connect to Enbridge Gas's existing distribution system on Trout Lake Road and go east within the road allowances to serve the Northshore and Peninsula Roads area. The Project also requires the construction of a new regulating station at the corner of Anita Avenue and Trout Lake Road.

¹² Argument-in-chief, page 3

Alternative routings for the proposed pipelines were considered, both of which Enbridge Gas stated would cost more than the proposed route¹³. The proposed route was selected as the most cost-effective route that offers the most customer connections, and is located adjacent to existing roads, which greatly minimizes environmental impacts¹⁴.

OEB staff agrees with Enbridge Gas's submission that operating the proposed system at a higher pressure (using smaller pipeline) would not result in cost savings, given that the savings from using a smaller pipeline for a segment of the system would be outweighed by the cost of upgrading existing pipelines and stations to accommodate a higher pressure¹⁵.

Enbridge Gas states that the design specifications are in accordance with the *Ontario Regulations 210/01* under the *Technical Standards and Safety Act 2000, Oil and Gas Pipeline Systems*. This is the regulation governing the installation of pipelines in the Province of Ontario. Enbridge Gas filed a letter from the Technical Standards and Safety Authority (TSSA) dated July 11, 2018, 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."¹⁶

3.3 Costs of the Project

OEB staff submits that it would be of assistance to the OEB if Enbridge Gas were to provide more information in its reply submission as to why the costs of the Project are significantly higher than similar projects.

The total estimated ten-year capital cost for the Project is approximately \$10.1 million (this amount includes the cost of upsizing the pipeline to accommodate the ultimate potential of 394 customer attachments along the Project route instead of the ten-year customer attachment forecast of 134 customers). This amount includes the pipeline and station costs of \$8.1 million, and the cost of service lines of \$2.0 million for the first ten years of the Project.

OEB staff notes that the total cost of the proposed Project (\$8.6 million in Year 1) is about four times higher than that of the Prince Township project¹⁷, which appears to be the most similar in terms of pipe size and length of pipe based on the list of comparable

¹³ Applicant's response to OEB staff interrogatory 1(g)

¹⁴ Application, Exhibit B, Tab 2, Schedule 11, page 5

¹⁵ Applicant's response to OEB staff interrogatory 1(d)

¹⁶ Application, Exhibit B, Tab 2, Schedule 12, page 41

¹⁷ EB-2015-0179

projects provided by Enbridge Gas¹⁸. Table 2 below reproduces Enbridge Gas's list of comparable projects and their costs, with an additional column showing the OEB staff's calculation of the pipeline cost per kilometre.

Table 2: Cost Comparison of Proposed Project to Similar Projects

Project	Pipe Size (NPS)	Length (km)	Material	kPa	Material Cost	Construction/ Contract Labour	Other Costs	Project Contingency	Total Project Cost (Year 1)	Year	Cost per km
Kettle Point & Lambton Shores	2	9.9	Plastic	550	\$ 175,880	\$ 1,199,958	\$ 343,969	\$ 58,367	\$ 1,778,174	2017	\$ 87,595
	4	10.4	Plastic	550							
Milverton, Rostock, Wartburg	2	22.765	Plastic	550	\$ 702,553	\$ 3,246,475	\$ 888,248	\$ 196,000	\$ 5,033,256	2017	\$ 106,209
	4	4.125	Plastic	550							
	4	20.5	Steel	3450							
Moraviantown	1.25	0.25	Plastic	550	\$ 55,393	\$ 328,970	\$ 121,365	\$ 34,385	\$ 540,113	2018	\$ 72,694
	2	4	Plastic	550							
	4	3.18	Plastic	550							
Prince Twp	1.25	2.25	Plastic	420	\$ 151,280	\$ 1,760,373	\$ 168,025	\$ 88,395	\$ 2,168,073	2018	\$ 96,573
	2	12.315	Plastic	420							
	4	7.885	Plastic	420							
North Bay	1.25	6.8	Plastic	420	\$ 192,456	\$ 6,410,359	\$ 1,315,729	\$ 729,602	\$ 8,648,146	2020	\$ 327,581
	2	12.6	Plastic	420							
	4	7	Plastic	420							

OEB staff submits that Enbridge Gas provided little evidence to explain why the cost per kilometre of this particular Project is much higher compared to other projects, other than to note that no two projects approved by the OEB and completed by Enbridge Gas are identical¹⁹, and that this Project has construction challenges related to the geography (with the presence of rock and variations in elevation), and requires tree removal, fee simple land purchase, and the acquisition of private easements, all of which contribute to the higher than usual construction costs.

Given the material difference between the cost of the proposed Project and that of Prince Township (and other projects), OEB staff submits that a more robust justification for the cost of the Project is required. As an example, Enbridge Gas could indicate any particular trenching challenges that make working in this area more expensive when compared to other similar projects.

¹⁸ Applicant's response to OEB staff interrogatory 3, Attachment 1

¹⁹ Applicant's response to OEB staff interrogatory 3

3.4 Overdesign of the Project

Enbridge Gas clarified in its interrogatory response that the \$10.1 million proposed Project was designed to serve the ultimate potential number of attachments in the Project area (n=394)²⁰. In OEB staff's view, the proposed Project is overbuilt as it is sized to meet the ultimate potential (based on the total number of dwellings in the Project area), not the forecast customer attachment in year ten.

OEB staff submits that the OEB has the following options:

- 1) Approve the Project as proposed
- 2) Approve the Project but allow Enbridge Gas to include the full cost of the Project into rate base only when the attachments from this Project exceed the ten-year customer attachment forecast
- 3) Approve the Project based on the cost of the minimum design, with the SES term shortened accordingly

OEB staff recommends Option 2

OEB staff notes that according to Enbridge Gas, the Project's ten-year forecast attachment could be served by a minimum design which would cost \$9.5 million²¹, or \$600,000 less than the cost of the proposed Project. The minimum design would replace approximately 3.5 km of NPS 4 with NPS 2.

The OEB has previously stated that applicants should 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."²²

OEB staff submits that Enbridge Gas has provided insufficient justification for upsizing (i.e. using NPS 4 instead of the NPS 2 which could have served to supply the ten-year forecast), other than noting in its interrogatory responses that the forecast attachment rates for similar community expansion projects have been exceeded by actual attachments so far²³, and that if the minimum design was installed, there would be very limited capacity for incremental growth in the Project area, in excess of the 134 attachments in the ten-year forecast²⁴. OEB staff submits that additional information on

²⁰ Applicant's response to OEB Staff interrogatories 1(b) and 1(f) ii, Pollution Probe interrogatories 6 (c) and 14 (b)

²¹ Applicant's response to OEB Staff interrogatory 1(c)

²² EB-2017-0180, Union Gas Limited, Greater Sudbury LTC, Decision and Order issued on September 28, 2017

²³ Ibid., Applicant's response to Environmental Defence interrogatory 13(a)

²⁴ Applicant's response to OEB Staff interrogatory 1(c)

long-term growth for the area would have been helpful to the OEB in determining whether the upsizing is appropriate especially in light of the survey undertaken which indicates that 37% of residential customers would be interested to convert to natural gas²⁵.

OEB staff notes that the economic feasibility analysis provided by Enbridge Gas is based on the cost of providing service to the ultimate potential attachment, which includes the \$600,000 in upsize cost²⁶. OEB staff submits that ratepayers could be at risk for the additional \$600,000 cost associated with the construction of the proposed pipeline versus the minimum design if the load incremental to the ten-year forecast does not materialize. However, OEB staff also acknowledges that there are potential benefits to building the Project as proposed as opposed to the minimum design. It is possible, given the early reports of attachment numbers from other projects, that Enbridge Gas could end up attaching more than its ten-year customer attachment forecast. If the potential incremental load does materialize, it is possible, given the high costs of the Project as mentioned above, that the reinforcement costs to serve the extra load may far exceed \$600,000. To further clarify this point, OEB staff submits that Enbridge Gas should be required to provide an estimate of the cost to reinforce the 3.5 km section if the minimum design with NPS 2 were to be built now, and be either replaced or reinforced by NPS 4 if additional load past the ten-year forecast were to be attached.

To balance both the potential risk and benefit, OEB staff submits that the OEB should allow Enbridge Gas to include \$600,000 of its \$1.4 million net investment into rate base only after the number of attachments for the Project exceeds the ten-year forecast. This approach is similar to the findings in other leave to construct proceedings where the OEB found the project design to be overbuilt for the project's forecast demand (e.g. Chatham-Kent Rural Project²⁷ and the Windsor Line Replacement Project²⁸).

If the Project is approved based on the cost of the minimum design

OEB staff submits that if the OEB only approved the capital cost of the minimum sized facilities, given the same rate level of rate protection, Payments in Lieu of Taxes and the same ten-year attachment forecast, the SES term for the Project would need to be reduced significantly. OEB staff submits that it may be helpful to the OEB if Enbridge Gas were able to provide in its reply submission a DCF analysis to show what the impact would be on the SES term.

²⁵ Applicant's response to OEB Staff interrogatory 5, Attachment 1, page 2

²⁶ Application, Exhibit B, Tab 2, Schedule 6

²⁷ EB-2018-0188

²⁸ EB-2019-0172

3.5 Project Economics

OEB staff notes that there is clear support from the Ontario government for the proposed Project given the rate protection of up to \$8.7 million provided to the proposed Project through the amendments to the OEB Act under Bill 32, and through Ontario Regulation 24/19. This results in a net capital investment by Enbridge Gas of \$1.4 million over the ten years.

Enbridge Gas completed a discounted cash flow (DCF) analysis of the Project. To the extent that Enbridge Gas's customer addition forecast is accurate, the results show that the project has a net present value of \$12,000 and a PI of 1.0 when using the proposed design. The DCF analysis was based on the following assumptions:

- a) An SES of \$0.23/m³ for up to 40 years
- b) \$8.7 million in rate protection, treated as a contribution in aid of construction (CIAC) in 2020
- c) Incremental Tax Equivalent of \$16,446 per year for a period of ten years

OEB staff notes that the economic feasibility analysis is somewhat unusual relative to other community expansion projects in that it includes the capital costs to construct a system that serves the ultimate potential of 394 customer attachments, and yet includes the revenues for the ten-year customer attachment forecast of 134 customers.

OEB staff understands that Enbridge Gas is not proposing to periodically update the Project's PI and if applicable, reduce the duration of the SES²⁹. Enbridge Gas also stated that if revenues are higher than forecast in years 11 to 40, it would not be reimbursing these funds by way of reducing the SES term, but that "once the increased profitability of this project is captured in the base upon which rates are set, this surplus would serve to reduce rates for all customers"³⁰.

OEB staff disagrees with Enbridge Gas's proposal. Enbridge Gas's Union rate zone community expansion customers appear to be unnecessarily disadvantaged relative to its Enbridge Gas Distribution (EGD) rate zone community expansion customers, for no reason other than a legacy issue. Enbridge Gas confirmed in an interrogatory response that for its EGD community expansion projects, it would periodically recalculate the SES, and reduce the term of the SES if the PI exceeds 1.0³¹. In OEB staff's view,

²⁹ Applicant's response to OEB staff interrogatory 2(b)

³⁰ Applicant's response to Environmental Defence interrogatory 16(c)

³¹ Applicant's response to OEB staff interrogatory 2(a)

Enbridge Gas has not provided a reason for why the community expansion projects of the different rate zones should be treated differently, other than Enbridge Gas stating that it is requesting SES approval on the same basis as previously approved SES projects in its Union rate zones. OEB staff is of the view that this is particularly important here because of the decoupling of revenues and costs within the feasibility calculation. OEB staff submits that Enbridge Gas should be directed to re-calculate the Project PI periodically and reduce the term of the SES if the PI exceeds 1.0. OEB staff has included this as a proposed condition of approval in Appendix A.

Rate Stability Period

OEB staff supports Enbridge Gas's proposal to implement a ten-year rate stability period during which it will assume the risks associated with the customer forecast and capital overruns. This proposal is consistent with the Generic Decision and a number of subsequent community expansion projects³². The use of a rate stability period is particularly valuable in this case because of the low average interest in converting to natural gas in the Project area (37% compared to 65% in 21 other communities, where a similar survey was used)³³ and the markedly high costs of the Project.

Enbridge Gas stated that it expects to provide a revised DCF calculation and PI based on actual project costs and revenues after the ten-year rate stability period for the purposes of recovering any revenue requirement shortfall³⁴. Enbridge Gas also stated its expectation that it would bring forward any cost overruns to be included in rate base at the next rate application following the ten-year rate stability period³⁵.

OEB staff notes that in the 2015 Community Expansion Application proceeding, Enbridge Gas proposed to bring forward any potential revenue requirement shortfalls for the going forward period in a future rate application after the ten-year rate stability period was over³⁶. The OEB agreed to allow Enbridge Gas to provide a DCF calculation based on actuals after the ten-year rate stability period in the event that it sought to recover any revenue requirement shortfall going forward, with the appropriate revenue recovery methodology to be determined at that time³⁷. The OEB also agreed that the appropriate treatment of any capital cost overruns for the post rate stability period would

³² For example: EB-2017-0147, Enbridge Gas, Fenelon Falls Project; EB-2017-0261, Enbridge Gas, Scugog Island Project; EB-2018-0263, EPCOR, South Bruce Project; EB-2019-0187, Saugeen First Nation Project

³³ Applicant's response to OEB staff interrogatory 5, Attachment 1, page 2

³⁴ Applicant's response to Environmental Defence interrogatories 2(b) and 5(b)

³⁵ Applicant's response to OEB staff interrogatory 2(e) and Environmental Defence interrogatory 2(b)

³⁶ OEB's Decision and Order in EB-2015-0179, Union Gas Limited (now Enbridge Gas Inc.), Community Expansion Application, issued August 10, 2017, page 7

³⁷ Ibid., page 14

be determined at the time of the first rebasing following the ten-year rate stability period³⁸. Enbridge Gas confirmed that it seeks to do the same for this Project, effectively proposing to include the revenue requirement of the project in the determination of base rates for all ratepayers after the ten-year rate stability period³⁹.

OEB staff submits that there are no circumstances under which Enbridge Gas should be permitted to recover any revenue shortfalls which occur during years one to ten, as this would be contrary to both policy guidance on community expansions and would constitute impermissible retroactive rate making (assuming the matter was considered in a rates case after year ten). OEB staff also submits that, after the rate stability period, the OEB would have the legal ability to add capital cost overruns incurred during the rate stability period into rate base, and/or to adjust the revenues from the Project to reflect actual customer numbers. However, there should be no expectation that any revenue shortfall or cost overruns would be recoverable in rates at the end of the rate stability period. If these circumstances were to arise, this would need to be adjudicated in the next rate application following the ten-year rate stability period.

3.6 Environmental Issues

OEB staff has no environmental concerns with the proposed Project.

An Environment Protection Plan (EPP) for the Project was prepared by Enbridge Gas's Environmental Planning Department. Enbridge Gas states that the EPP was prepared to meet the intent of the OEB's *Environmental Guidelines for Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario* (7th Edition, 2016).

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 (including measures described in the Natural Heritage Study) are followed. Enbridge Gas stated that it will ensure that the recommendations in the EPP are followed⁴⁰.

OPCC Review

Enbridge Gas circulated a copy of the Environmental Protection Plan to the Ontario Pipeline Coordinating Committee (OPCC) in April 2018. A summary of comments

³⁸ Ibid., page 15

³⁹ Argument-in-chief, page 7; Applicant's response to Environmental Defence interrogatory 5(b)

⁴⁰ Application, Exhibit B, Tab 1, Schedule 7, page 2

received by Enbridge Gas prior to filing the Application and the corresponding responses to the OPCC are provided in evidence⁴¹. In its interrogatory responses, Enbridge Gas stated that there had been no communications with the OPCC since the Application was filed with the OEB⁴² and that there are no outstanding OPCC-related concerns⁴³.

The Archaeological Assessment Report was submitted to the Ministry of Tourism, Culture and Sport (MTCS) on February 8, 2019 and received approval by the MTCS on July 18, 2019. The Cultural Heritage Study was sent to MTCS on April 2, 2019 and was accepted by MTCS on May 7, 2019.

On April 14, 2020, as an update to one of its interrogatory responses⁴⁴, Enbridge Gas filed a letter from the Ministry of the Environment, Conservation and Parks (MECP) dated April 7, 2020 regarding Enbridge Gas's Hydrogeological Study and Spill Response Plan for the Project. MECP noted that during construction, there is a potential for impact to water quality and quantity in water wells in the area. MECP recommended a door-to-door survey of residences in addition to Enbridge Gas's private well monitoring program, and storing chemical and fuel containers in an impermeable area to protect groundwater and surface water quality. Enbridge Gas stated that Stantec would deliver well monitoring notification letters to all residences within 100 metres of the proposed pipeline by April 2020, and that it would store chemicals and fuels appropriately in impermeable areas.

3.7 Indigenous Consultation

OEB staff has no concerns with respect to Indigenous consultation, and notes that no Indigenous communities intervened or expressed any concerns in the proceeding.

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 11, 2019, the MENDM indicated that Enbridge Gas's consultation activities with respect to the Project are satisfactory⁴⁵.

3.8 Land Matters

OEB staff has no concerns with respect to land matters.

⁴¹ Application, Exhibit B, Tab 2, Schedule 12

⁴² Applicant's response to OEB staff interrogatory 7(b)

⁴³ Applicant's response to Pollution Probe 8(c)

⁴⁴ Applicant's updated response to OEB staff interrogatory 7(b), Attachment 3

⁴⁵ Application, Exhibit B, Tab 2, Schedule 19

The majority of the Project will be located within road allowances. Approximately 9 km of the proposed facilities are within forced roads. These segments vary in length and location along Northshore and Peninsula roads. These road allowances are considered to be forced roads because they cross private property and have been maintained by the municipality as a public highway for many years. Enbridge Gas provided confirmation of this fact through a statement filed by a local Ontario Land Surveyor and the City of North Bay's By-Law No. 2002-133, passed on December 16, 2002. Enbridge Gas is aware of only one landowner dispute (not a legal claim) related to the forced road on that property relating to drainage. Enbridge Gas understands that the landowner does not oppose the Project.

In the areas where the Proposed Facilities will not be constructed on road allowances, permanent easements and temporary land use rights will be obtained from the directly affected landowners. Enbridge Gas does not anticipate any issues obtaining the necessary easements.

The new regulating station will be located on a fee simple area Enbridge Gas proposes to purchase prior to construction. Based on preliminary discussions with the directly affected landowner, Enbridge Gas does not anticipate any issues obtaining the necessary land rights required for the station.

3.9 Other Permits and Approvals

Enbridge Gas reported that a number of other permits and approvals are pending, including: municipal consent approving the location of pipeline with road allowance, an encroachment permit to construct on Highway 63 from the Ministry of Transportation, and a permit from the North Bay-Mattawa Conservation Authority for watercourse and regulated area crossings⁴⁶.

Enbridge Gas anticipates that all permits and approvals will be obtained by May 2020 prior to construction⁴⁷.

3.10 Conditions of Approval

The OEB Act permits the OEB, when making an order, to "impose such conditions as it considers proper."⁴⁸ OEB staff asked Enbridge Gas to comment on a set of proposed

⁴⁶ Applicant's response to OEB staff interrogatory 6 and Pollution Probe interrogatory 2(c)

⁴⁷ Applicant's response to Pollution Probe interrogatory 6

⁴⁸ OEB Act, s. 23

conditions of approval for the leave to construct portion of the application, which is reproduced in Appendix A (except for the last paragraph which was deleted to be consistent with more recent OEB leave to construct decisions). Enbridge Gas responded that it reviewed the proposed conditions of approval and has no changes to recommend⁴⁹.

OEB staff notes that it has proposed an additional condition of approval related to the SES, discussed above in section 3.5 and section 3.11 below. This additional condition is reflected in Appendix A.

3.11 System Expansion Surcharge

OEB staff submits that Enbridge Gas's request for an SES for the Project should be approved, but that this approval should be conditional on Enbridge Gas recalculating the PI for the Project periodically, as it does for its EGD rate zone community expansion projects, and reducing the SES term accordingly once the Project reaches a PI of 1.0.

Enbridge Gas is seeking approval to extend to the Project the SES that was previously approved by the OEB in Union Gas' 2015 Community Expansion Project (2015 Project)⁵⁰, Enbridge Gas's Chippewas of the Thames First Nation Community Expansion Project⁵¹ and Saugeen First Nation Community Expansion Project⁵². The use of an SES will allow customers in the Project area to contribute a portion of their fuel savings to the feasibility of the Project.

OEB staff prepared draft conditions for the SES, in accordance with the Generic Decision and the 2015 Project for comment by Enbridge Gas. Enbridge Gas's interrogatory response stated that it did not believe the added conditions are required in the context of the leave to construct, and that it had proposed and expected that the basis of the OEB's approval of its SES would be the same as that previously approved by the OEB in the 2015 Community Expansion⁵³. However, Enbridge Gas also stated that if the OEB determines the conditions are required, Enbridge Gas would comply with all conditions set out by the OEB.

⁴⁹ Applicant's response to OEB staff interrogatory 10

⁵⁰ EB-2015-0179 for service to 1. Kettle and Stony Point First Nation and Lambton Shores; 2. Milverton, Rostock and Warburg; 3. Prince Township; and 4. Delaware Nation of Moraviantown First Nation. Construction of the project is complete and customers are currently paying the SES.

⁵¹ EB-2019-0139. Construction of the project is complete and customers are currently paying the SES.

⁵² EB-2019-0187

⁵³ Applicant's response to OEB staff interrogatory 11

OEB staff has no objections to the OEB not adding OEB staff's previously proposed conditions for the SES as formal conditions to the order, as long as the SES is approved on the same basis as that of the OEB's approval in the 2015 Project.

4 CONCLUSION

In OEB staff's view, the Project has potential to benefit the Northshore and Peninsula Roads area in the City of North Bay by increasing energy options for local consumers, reducing energy costs for local consumers, and may help support economic growth and new jobs. However, Enbridge Gas has not sufficiently justified the need for the proposed design (i.e. to meet the ultimate potential customer attachment forecast of 394 customers) as opposed to the minimum design (i.e. to meet the ten-year customer attachment forecast of 134 customers). In addition, given the material difference between the cost of the proposed Project and other similar projects, OEB staff submits that a more robust justification for the cost of the Project is required. OEB staff submits that the OEB has three options: 1) approve the Project as proposed, 2) approve the Project but allow Enbridge Gas to include the full cost of the Project into rate base only when the attachments from this Project exceed the ten-year customer attachment forecast, or 3) approve the Project based on the cost of the minimum design, with the SES term shortened accordingly. To balance both the potential risk and benefit, OEB staff submits that the OEB should allow Enbridge Gas to include \$600,000 of its \$1.4 million net investment into rate base only after the number of attachments for the Project exceeds the ten-year forecast (i.e. option 2).

OEB staff is satisfied that the use of an SES is appropriate to help make the Project economically feasible. However, OEB staff submits that to protect customers attaching to this Project, Enbridge Gas should be required, as a condition of approval, to periodically re-calculate the PI of the project with the budgeted capital costs and the actual attachments, and to reduce the SES term of the Project accordingly.

OEB staff submits that the use of a ten-year rate stability period addresses the risks associated with the customer attachment forecast and capital cost overruns. However, OEB staff also submits that while the OEB has the legal ability to allow for recovery of revenue shortfall or cost overruns after year ten, Enbridge Gas should not expect to recover any revenue shortfall or cost overruns in base rates at the end of the rate stability period.

OEB staff is satisfied that environmental, Indigenous consultation and land matters have been adequately addressed to date.

Finally, OEB staff submits that the approval also be subject to the proposed conditions of approval in Appendix A.

All of which is respectfully submitted.

Appendix A

**Enbridge Gas Inc.
North Bay (Northshore and Peninsula Roads) Project
OEB Act Sections 36 Rates and 90 Leave to Construct**

PROPOSED 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-2019-0188 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 ten days following the completion of construction; and
 - iv. of the in-service date, no later than ten 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 Gas shall not make any such change without prior notice to and written approval of the OEB. In the event of an emergency, the OEB shall be informed immediately after the fact.
5. 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.
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's 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's 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.
8. Enbridge Gas is to monitor and report on the PI for the project and reduce the SES term accordingly once the PI reaches 1.0.