



**BY EMAIL:** *registrar@oeb.ca*

November 9, 2020

Ontario Energy Board  
2300 Yonge Street, 27<sup>th</sup> Floor  
P.O. Box 2319  
Toronto, ON M4P 1E4  
Attn: Christine Long

Dear Ms. Long:

**RE: Enbridge Gas Inc. NPS 20 Replacement Cherry St. to Bathurst St. Project  
Ontario Energy Board File Number; EB-2020-0136**

In accordance with Procedural Order No. 3, please find attached the Metrolinx submission for the above proceeding.

If you have any questions regarding these interrogatories, please contact the undersigned.

Yours truly,

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**ENBRIDGE GAS INC.  
NPS 20 REPLACEMENT CHERRY TO BATHURST**

**EB-2020-0136**

**METROLINX SUBMISSION**

***A. Summary***

1. Enbridge Gas Inc. (“Enbridge”) proposes to construct a natural gas pipeline (the “Project”) through the downtown area of the City of Toronto in and about the same area Metrolinx is scheduled to complete the Union Station Enhancement Project (“USEP”). The Project is expected to be under construction for a period of approximately 1.5 years, which coincides with significant portions of the USEP schedule. Moreover, major aspects of the Project, including the exact location of the proposed pipeline, have not been disclosed in this proceeding. This raises significant concerns, including conflicts with existing and future Metrolinx projects.
2. As such, Metrolinx requests Conditions of Approval that will enable Enbridge and Metrolinx to coordinate their prospective projects.
3. The requested Conditions of Approval are found at Appendix A of these submissions.

***B. Unresolved Concerns***

4. Metrolinx’s outstanding concerns relate to infrastructure conflicts and construction impacts. Metrolinx respectfully requests Conditions of Approval to mitigate these issues.

5. The Ontario Energy Board's ("OEB") Environmental Guidelines for Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario ("Environmental Guidelines") provide that:

[i]f matters are not resolved by the completion of the record and if the issue is within OEB's authority, the OEB may impose related conditions to its leave to construct and other related approvals".<sup>1</sup>

6. In the OEB's recent Leave to Construct decision for Enbridge's Greater Toronto Area project, it considered the following as part of its evaluation of the public interest:

- a. need and alternatives;
- b. cost, economic evaluation, and rate impact;
- c. environmental, technical and safety issues;
- d. landowner matters;
- e. aboriginal consultation, and;
- f. conditions of approval.<sup>2</sup>

7. Metrolinx takes no position with regard to project need, project economics, environmental issues, or aboriginal consultation.

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<sup>1</sup> Ontario Energy Board, Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario, 7<sup>th</sup> Edition, 2016, p 9 [Environmental Guidelines]

<sup>2</sup> EB-2012-0451, Decision and Order, January 30, 2014, p 5

### ***C. Infrastructure Conflicts***

8. Metrolinx has extensive and costly upcoming infrastructure projects along Enbridge's proposed route, including primarily USEP.
9. Major aspects of the Project remain unplanned or unconsidered.

### ***D.1 Requested Conditions of Approval***

10. Conditions of Approval are required to minimize the negative impacts and risks of the Project. They are supported by the Provincial Policy Statement ("PPS") and the Environmental Guidelines.
11. Metrolinx requests two sets of Conditions of Approval, relating to the planning and execution of the Project, as set out in Appendix A.

### ***D.2 The Provincial Policy Statement Requires Strong Conditions***

12. The OEB decision-making must be consistent with the PPS. This is set out in section 3(5) of the *Planning Act*, the PPS, and in the Environmental Guidelines. The Divisional Court held that "consistent with" requires following the PPS, not merely taking it into account.
13. The PPS supports Metrolinx's proposed Conditions of Approval:

A coordinated, integrated and comprehensive approach should be used when dealing with [...] other orders of government, agencies and boards including: (a) managing and/or

promoting growth and development that is integrated with infrastructure planning; and (d) infrastructure, multimodal transportation systems, public service facilities...<sup>3</sup>

14. The Conditions of Approval set out in **Appendix A** are consistent with the PPS and the Environmental Guidelines, which require considering social impacts<sup>4</sup> and impacts on transportation facilities.<sup>5</sup>

***E. Requested Relief***

15. Metrolinx respectfully requests that any Leave to Construct be subjected to the Conditions of Approval at **Appendix A**.

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<sup>3</sup> Provincial Policy Statement, 2020, under the *Planning Act*, s 1.2.1 [PPS]

<sup>4</sup> Environmental Guidelines, *supra* note 1, p 23

<sup>5</sup> *Ibid*, p 29

## **APPENDIX A: PROPOSED CONDITIONS OF APPROVAL**

1. Enbridge shall coordinate and consult in a specific, meaningful, ongoing and iterative fashion with Metrolinx on its planning, construction, and operation of the project, including coordinating its construction plans with Metrolinx, including without limitation, Enbridge's use and occupation of municipal right-of-ways. Enbridge shall document its commitment to cooperate with Metrolinx in an access and construction coordination agreement between Enbridge and Metrolinx.
2. Enbridge shall plan and construct the Project in a manner so as to: (i) avoid any "Constructor" (as defined by the *Occupational Health and Safety Act*) issues and (ii) to not take any actions that would disrupt Metrolinx's status as a Constructor.