Joel Denomy
Technical Manager
Regulatory Applications
Regulatory Affairs

tel 416-495-5499
EGIRegulatoryProceedings@enbridge.com

Enbridge Gas Inc.
500 Consumers Road
North York, Ontario M2J 1P8
Canada

November 17, 2020

VIA EMAIL and RESS

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

**Re: Enbridge Gas Inc. (Enbridge Gas)
Ontario Energy Board (OEB) File: EB-2020-0136
NPS 20 Replacement Cherry to Bathurst – Reply Argument**

In accordance with Procedural Order No. 3 dated October 27, 2020, enclosed please find the Reply Argument of Enbridge Gas.

Please contact the undersigned if you have any questions.

Yours truly,

Joel Denomy
Digitally signed by Joel Denomy
Date: 2020.11.17 13:59:41 -05'00'

Joel Denomy
Technical Manager, Regulatory Applications

EB-2020-0136

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998,* S.O. 1998, c. 15 (Sched. B), as amended (the "OEB Act"); and

AND IN THE MATTER OF an application by Enbridge Gas Inc. under section 90 of the OEB Act for an order or orders granting leave to construct natural gas pipeline and ancillary facilities in the City of Toronto.

ENBRIDGE GAS INC.

LTC APPLICATION:
CHERRY TO BATHURST NPS 20 PIPELINE REPLACEMENT PROJECT

REPLY ARGUMENT

AIRD & BERLIS LLP
Barristers and Solicitors
Brookfield Place
Suite 1800, Box 754
181 Bay Street
Toronto, ON M5J 2T9

David Stevens
Tel   (416) 863-1500
Fax (416) 863-1515

Email: dstevens@airdberlis.com

Counsel to Enbridge Gas

A. OVERVIEW

1. On November 2, 2020, Enbridge Gas Inc. (Enbridge Gas, or the Company) filed its Argument in Chief setting out the reasons why leave to construct (LTC) should be granted to replace vintage steel pipeline in downtown Toronto, primarily along Lake Shore Boulevard between Cherry Street and Bathurst Street (C2B or the Project). The existing C2B pipeline is a vintage steel main that was installed in or around 1954. Enbridge Gas has identified integrity and reliability concerns with the existing pipeline through review of records, asset heath review investigations and assessments, inline inspections (ILIs), integrity digs and other reviews. It is not practical or reasonable to simply repair this existing pipeline as issues are identified, because of the huge amount of repair work that would be required.

2. Seven parties filed submissions in response to Enbridge Gas.[1] This Reply Argument sets out Enbridge Gas's response. Enbridge Gas will not repeat its Argument in Chief, but continues to rely on the positions and argument already submitted. Given the broad scope of the arguments received from other parties, Enbridge Gas will not attempt to respond to every item noted. Failure to respond to any particular item should not be interpreted as acceptance or agreement by Enbridge Gas.

3. OEB Staff agrees that the Project is needed and submits that it should be approved at this time. Metrolinx and Toronto take no position on most aspects of LTC approval, instead directing their submissions at proposed Conditions of Approval for the Project.

4. No party argues that replacement of the pipeline is unnecessary, however, some parties argue that approval of the Project is not needed or appropriate at this time. Enbridge Gas disagrees. This like-for-like replacement project on a pipeline serving the densest part of the Company's service area is not a candidate for integrated resource planning (IRP), and there is no reasonable prospect that delaying the Project

[1] The parties who filed submissions are OEB Staff; Energy Probe Research Foundation (EP); Environmental Defence (ED); Federation of Rental-Housing Providers of Ontario (FRPO); Metrolinx; Pollution Probe (PP); and the City of Toronto (Toronto).

will result in meaningful savings. Similarly, delaying the Project to conduct further ILIs is not likely to change the determination that replacement of the entire C2B segment is necessary. Finally, ratepayers will not save money by delaying the Project to beyond rebasing.

5. Metrolinx and Toronto advance a long list of Conditions of Approval to be included in the OEB's LTC decision. The OEB considered and declined to include substantially similar proposed Conditions of Approval in the recent Imperial Oil LTC decision. Enbridge Gas does not believe that it is necessary for the OEB to set out all of an applicant's commitments and obligations within Conditions of Approval. In its interrogatory responses, Enbridge Gas has already agreed to do many of the items covered by the proposed additional Conditions of Approval. Many of the other proposed Conditions of Approval are things that are done in due course as a project proceeds. Attempting to list all possible commitments and obligations of a project proponent in Conditions of Approval will make future LTC applications more complicated than necessary. Parties can revert to the OEB if there are problems as the Project proceeds.

B. MOST ASPECTS OF THE LTC APPROVAL REQUEST ARE NOT IN DISPUTE

6. As explained in Argument in Chief, when determining whether a project is in the public interest and warrants LTC approval under section 90 of the OEB Act, the Board typically examines the following criteria: need for the project, project alternatives, project costs and economics, environmental impacts, landowner impacts and Indigenous consultation.[2]

7. Enbridge Gas has satisfied these criteria for the Project, as outlined in the evidence and summarized in Argument in Chief.[3]

[2] See Argument in Chief, para. 32, and references cited therein.
[3] See Argument in Chief, paras. 33 to 58, and references cited therein.

8. Parties acknowledge or do not dispute that Enbridge Gas has met most of the requirements for LTC approval.

9. OEB Staff supports LTC approval, acknowledging that "there is a need for the Project in order to address integrity and safety concerns". OEB Staff confirm that they have no issues with the proposed Project costs and are satisfied that environmental, Indigenous consultation and land matters have been adequately addressed to date.[4]

10. Metrolinx and Toronto do not take any position on the OEB's LTC approval criteria, including project need, project economics or Indigenous consultation.[5] Presumably, if either of these parties had substantial concerns, they would have advanced those items. Instead, they each confined their submissions to proposed Conditions of Approval.

11. The remaining parties (ED, EP, FRPO and PP) focus their submissions on Project alternatives, Project timing and Project costs. No party takes issue with the proposed Project route, and indeed Energy Probe supports the proposed route.[6]

12. Enbridge Gas submits, therefore, that there is no dispute among the parties as to the environmental impacts, landowner impacts and Indigenous consultation aspects of the Project. The Company has no further submissions on these items.

C. THERE IS NO NEED TO DELAY THE PROJECT APPROVALS

13. No party says that replacement of the C2B is not needed, but some parties argue that the Project (and approval of the Project) should be delayed or deferred. The reasons given for this position (which are different for each intervenor) are: (i) Enbridge Gas should undertake a review of the entire 48 km NPS 20 segment of the Kipling Oshawa Loop (KOL), to assess whether there is a more cost-effective solution than like-for-like

[4] OEB Staff Submission, page 2. The explanation of OEB Staff's position is set out in the balance of the OEB Staff Submission.
[5] Metrolinx Submission, para. 7; and Toronto Submission, para. 10.
[6] Energy Probe Submission, page 7.

replacement, taking IRP options into account[7]; (ii) Enbridge Gas should first file an incremental capital module (ICM) request for Project funding and should then file an updated LTC application addressing different Project options depending on future demand scenarios[8]; (iii) Enbridge Gas should wait until after rebasing, because that will save ratepayers money[9]; and (iv) Enbridge Gas should wait until after it has performed an ILI on the western part of the C2B segment, and should coordinate its plans with Toronto before approval is granted[10].

14. In the subsections below, Enbridge Gas sets out its response to these intervenor positions, organized by theme. In short, the Company asserts that the Project should be approved and proceed as scheduled. The evidence does not support parties' position that there is "no urgency" to the Project.[11] Integrity concerns have been identified that justify replacement of the C2B segment, and it is not responsible or proper to take a "wait and see" approach to see whether, when and where new issues arise. Conducting further ILI investigations will not result in a different determination of need for the Project. Delaying the Project is not likely to result in cost-savings in terms of supporting a reduced pipeline size or in terms of reduced ratepayer impacts.

Impacts of Project delay

15. Enbridge Gas does not agree that there is "no urgency" to the Project. The Project is aimed at replacing a vintage steel pipeline that has identified integrity concerns. There is no dispute among any of the parties that the C2B segment should be replaced. The prudent approach, as explained in the Company's Asset Management Plan (as well as other supporting documents) is to replace the pipeline now and avoid future integrity issues presenting themselves.[12] While it is true that Enbridge Gas is not

[7] ED Submission, page 2.
[8] PP Submission, page 12.
[9] Energy Probe Submission, page 8.
[10] FRPO Submission, pages 1 and 7.
[11] See, for example, ED Submission, page 2; and Energy Probe Submission, page 8.
[12] Relevant excerpts from the Company's Asset Health Review (AHR) process, and the Company's Asset Management Plan, as well as internal presentations explaining and approving the Project, are attached to Exhibit I.EP.3.

currently pursuing an intensive integrity dig program for the C2B segment[13], that is only because the pipeline is proposed for replacement, and the Company does not want to spend money repairing the asset in the interim unless absolutely necessary.

16. The delay and approve later approach that some parties seem to advocate[14] might very likely end up being less safe and more expensive. The costs for additional integrity digs and repairs, as well as further ILIs, would be recognized immediately. Then, at a future date, the C2B pipeline would still have to be replaced and the future cost (which will include inflation) would likely be higher. Enbridge Gas has currently identified a Project route within a right of way that avoids conflicts with other utilities and infrastructure. Delaying the Project may force some re-routing (potentially a longer route at a higher cost) if future infrastructure or development occupies any of the planned Project route.

17. Parties appear to be concerned about impacts of construction activities in the impacted area in downtown Toronto.[15] It is important to note that delaying the Project and managing known and new issues through integrity digs (repairs, replacements of small sections, cut outs, etc.) would actually have more of an impact to the area than a single coordinated replacement project.[16] The required repair work could occur at random times and unpredictable locations, particularly for repairs triggered as a result of a pipeline leak. As compared to a known replacement project (which will have to occur at some point anyway), the interim unscheduled and randomly located repair work would be more difficult to coordinate with all the other planned work being undertaken by other stakeholders like Toronto and Metrolinx. In addition, there is a real risk that a required repair location on the existing NPS 20 pipeline will not be easily accessible because of the close proximity to other stakeholders' infrastructure,

[13] PP Submission, page 8.
[14] See, for example EP Submission, page 8; and PP Submission, page 12.
[15] See, for example, ED Submission, page 7; and FRPO Submission, page 4.
[16] Enbridge Gas acknowledges that this specific item was not addressed in interrogatories, but the Company believes that the information in this paragraph will be helpful to parties and the OEB.

such as the Gardiner Expressway bridge structures, Metrolinx railway corridor and electricity infrastructure.

<u>The Project is not a viable candidate for IRP</u>

18. Enbridge Gas repeats its position that this Project is not a likely candidate for IRP to result in a deferment or reduction in pipeline size.[17] Enbridge Gas does not believe that it is reasonable or necessary to conduct detailed IRP analysis for a project like the C2B replacement, which is driven by integrity issues and where it is highly unlikely that IRP will be a cost-effective alternative. The Project seeks to replace a vintage steel pipeline with substantial integrity issues with a like-sized pipeline. The C2B segment of pipeline being replaced serves a densely populated area of Toronto, where the customer base continues to grow.[18] Contrary to PP's repeated assertions[19], the existing pipeline is not oversized to serve current demand (taking into account the real likelihood of supply disruptions on facilities that feed the C2B segment).[20] There would need to be an immense reduction in demand (around 18%, based on the Company's high-level projections) to justify reducing the pipeline size from NPS 20 to NPS 16.[21] A reduction to an even smaller pipeline size would require even more demand reduction (by way of example, a 20" pipeline carries around 2.5 times more gas than a 12" pipeline). It is reasonable, therefore, for the Company to have decided not to undertake detailed IRP analysis for this Project.

19. Important context here is that even if it were possible to reduce the size of the pipeline from NPS 20 to NPS 16, the cost savings would be modest. Enbridge Gas estimates that total Project costs would be reduced by only 5% to 10% if the Project could be completed using NPS 16 pipeline.[22] This implies a cost savings in the range of $7

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[17] Argument in Chief, para. 39.
[18] Argument in Chief, para. 38, and references cited therein. Enbridge Gas is aware of many upcoming and future development projects in the downtown area that will require natural gas and it is important for Enbridge Gas to maintain the capacity that the NPS 20 pipeline provides, as well as the operational flexibility it provides for the system.
[19] See, for example, PP Submission, pages 6 and 7.
[20] See Exhibit I.ED.5. See also Exhibit B, Tab 1, Schedule 1, paras. 34 to 38.
[21] Exhibit I.ED.5.
[22] Exhibit I.FRPO.5.

million to $13 million. The reason why the cost difference is so small (relative to the total Project cost of $133 million) is because most of the cost of the Project is labour, and that cost is not expected to change materially where the size of the pipeline is reduced to NPS 16. In both scenarios, the construction techniques and equipment to be used will be similar (meaning that the labour costs will not be meaningfully different).

20. It should also be noted that there are advantages to an NPS 20 pipeline that will be lost if NPS 16 is used instead. An NPS 16 replacement pipeline would adversely impact existing operational flexibility that is critical to maintain supply to the downtown core of Toronto during adverse operating conditions. A reduction in pipe size for this segment alone on the KOL line would also reduce Enbridge Gas's ability to implement a straightforward ILI program on the KOL main should it choose to do so in the future. The existing pipeline has many unpiggable fittings on it currently, but Enbridge Gas's current design practices for vital mains require piggable fittings for any new installation. A pipeline constructed with different sizes negates this potential for single ILI runs, leading to increased future costs if an ILI program is developed for this pipeline in the future.[23]

21. Enbridge Gas acknowledges that the OEB is currently addressing an IRP framework that will apply to the Company on a go-forward basis, but Enbridge Gas does not believe that it is reasonable to have to wait for that process to be completed before obtaining approval for the Project. That could delay the Project for several years, first to wait for OEB direction on IRP, and second to undertake the prescribed IRP evaluation of whether there are alternatives to the Project. Absent specific direction to the contrary, Enbridge Gas does not believe that it should have to delay its planned

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[23] Exhibit I.ED.5. As stated in that response, the existing KOL pipeline has many unpiggable fittings on it currently, but Enbridge Gas's current design practices for vital mains require piggable fittings for any new installation. A pipeline constructed with different sizes negates this potential for single ILI runs, leading to increased future costs if an ILI program is developed for this pipeline in the future. FRPO acknowledges this disadvantage of installing a smaller replacement pipeline and supports a like-for-like replacement – FRPO Submission, page 4.

infrastructure projects until after an IRP Framework is determined, particularly in relation to proposed projects that are very unlikely to be suitable IRP candidates,

22. ED submits that Enbridge Gas should have done IRP analysis to determine if the pipeline could be cost-effectively downsized through geographically-targeted energy efficiency programs, demand response or other forms of demand-side management (DSM).[24] Enbridge Gas submits that this was not reasonable or necessary in the circumstances of this Project. The Company does not believe that it is realistic to conclude that IRP could have a meaningful impact on the Project. This is an integrity-driven project, not a reinforcement or expansion project based on forecast growth. DSM will not solve the identified integrity concerns. It is very difficult to conclude that geotargeted DSM could be cost-effective to reduce the pipeline size for the Project, when one takes into account the relatively minor cost savings (up to $13 million) associated with downsizing the Project to NPS 16. Surely it is not reasonable to expect that Enbridge Gas could spend less than $20 million on targeted DSM to achieve an 18% demand reduction from customers served by the C2B segment of the KOL.

23. ED appears to acknowledge that IRP (targeted DSM) will not be cost-effective to downsize the Project[25], and instead proposes that Enbridge Gas should provide its plan for replacement of the entire 48km NPS 20 segment of the KOL. ED's suggestion is that IRP could result in a downsizing of the larger project.[26] ED fails to acknowledge that Enbridge Gas does not have a current plan to replace the entire 48km NPS 20 segment of the KOL.[27] While the entire NPS 20 Lake Shore pipeline is part of the Company's distribution assets that are reviewed through the asset management planning process, there is no current need identified to replace any part of that pipeline other than the C2B segment. While the 2021-2025 Asset Management Plan identifies

[24] ED Submission, page 2.
[25] ED Submission, page 4.
[26] ED Submission, pages 3 to 5.
[27] Exhibit I.Toronto.17(b).

the Bathurst to Humber River segment of the NPS 20 KOL as being subject to investigation, it also indicates that no current plans have been made to replace that segment.[28] Similarly, the Company's 2019 "Asset Replacement Strategy" indicates that replacement of further "phases" of the NPS 20 KOL is recommended to be beyond the Company's then-current 10 year Asset Management Plan.[29] Given that the Company has no current plan to replace the entire NPS 20 KOL, it would not be reasonable or appropriate to require Enbridge Gas to develop a "holistic proposal with respect to the entire 48 km of pipeline with similar integrity concerns". Similarly, given that no "need" has been identified to replace the entire pipeline, it would not be reasonable or appropriate to require Enbridge Gas to undertake IRP planning on this purported project.

<u>It is reasonable not to assume that future demand will decrease</u>

24. In part, ED and PP's positions that pipeline size for the Project could be reduced are premised on their position that Enbridge Gas should have taken future projections of reduced natural gas consumption into account. ED and PP point to projections of decreased natural gas demand in Ontario in coming years, and assert that this shows that a smaller diameter replacement pipeline could be sufficient.[30]

25. Enbridge Gas is required to ensure safe and reliable service to its customers. For current planning purposes, the Company cannot assume that the emissions and gas consumption reduction targets set out in the Made in Ontario Environment Plan (MOEP) or the City of Toronto's TransformTO initiative will be met. Enbridge Gas certainly cannot assume that these targets will be met in the near term (which is when replacement of the C2B segment is required).

26. Enbridge Gas acknowledges that the MOEP includes a target to reduce greenhouse gas (GHG) emissions, including through natural gas conservation. However, it is not

[28] Enbridge Gas Asset Management Plan 2021-2015, page 105. Filed in EB-2020-0181 at Exhibit C, Tab 2, Schedule 1.
[29] Legacy ED Asset Replacement Strategy (2019), filed at Exhibit I.EP.3, Attachment 4, page 8 of 14.
[30] See, for example, ED Submission, pages 5 to 7; and PP Submission, pages 6 to 7.

clear when, whether and how that will be achieved. As explained in response to ED Interrogatory #3, the MOEP sets an emissions reduction target for 2030 and discusses the policies and programs that are anticipated to contribute to meeting that target. The MOEP states that “[t]he actual reductions achieved will depend on how actions identified in our plan are finalized based on feedback we get from businesses and communities”. [31] Importantly, the Auditor General’s report on the MOEP states that “the Ministry estimated the additional required funding for this scenario from 2021 to 2030 would be $6.6 billion”. Further, the MOEP states that emission reductions from natural gas conservation “assumes a gradual expansion of programs delivered by utilities, which would be subject to discussions with the Ontario Energy Board”.[32]

27. Enbridge Gas also acknowledges the statements cited by PP from the TransformTO initiative about how the City of Toronto could achieve GHG emissions reductions by 2020 and 2050.[33] However, as is the case with the MOEP, the TransformTO initiative targets are premised on significant new activities and expenditures, none of which are assured. It is perhaps noteworthy that the City of Toronto is an intevenor in this case, and it has not raised any specific concerns about negative implications of a like-for-like pipeline replacement for the C2B Project.

28. None of this should be interpreted to mean that Enbridge Gas does not support conservation and emissions reduction efforts. The Company is a strong supporter of such activities. Nor does the Company take the position that the MOEP is not a current statement of government policy – as noted in the Voluntary RNG Program Application (EB-2020-0066), Enbridge Gas does take guidance and direction from the MOEP (even though it is still stated to be a “draft”). The problem here is that the emissions reductions and natural gas conservation goals set out in the MOEP (and TransformTO) will only be achieved through significant actions taken by government and industry. Because there is no current program, funding or direction around what

[31] Exhibit I.ED.3, and attached MOEP.
[32] See Exhibit I.ED.3, and references cited therein.
[33] See references cited in the PP Submission, page 6.

these actions will be, when they will happen, and what they will achieve, Enbridge Gas is not able to reliably conclude that the demand to be served by the C2B segment of the KOL will decline, particularly in the immediate term. It is in that context that Enbridge Gas is not able to agree that a reduced size replacement pipeline can be installed to continue to reliably serve its customers.

<u>There is no need to conduct further ILI investigations on the C2B segment</u>

29. FRPO advances a different reason to delay approval of the Project, asserting that Enbridge Gas should conduct ILI investigations on the entire C2B segment before proceeding with the replacement project.[34] Enbridge Gas does not agree. In the Company's view, this would only add time and cost to the Project.

30. Enbridge Gas acknowledges that it has only conducted ILI investigations on the eastern portion of the C2B segment (1.9 km), but submits that it is reasonable to conclude that the remaining portion will be in similar condition. As explained in response to Energy Probe Interrogatory #9, "[e]xtrapolation of data from the section of pipe that was inline inspected to the remaining 2.6 km section of pipe is a reasonable assumption. Enbridge Gas believes it is reasonable to expect that the remaining 2.6 km of the C2B segment is in a similar condition to that of the segments of C2B for which ILIs were conducted. This is supported by the fact that comparable environmental conditions (such as high concentrations of petroleum hydrocarbons and volatile organic compounds) exist across the Project, and the year of construction for the pipeline is the same for the inspected and non-inspected portion of gas pipeline."[35] No party, including FRPO, sets out any reason to conclude that the condition of the western portion of the C2B segment that has not been "ILI'ed" will be different from the eastern portion of the C2B pipeline.

31. The Company's evidence is that it would be expensive and difficult to complete ILI on the remaining 2.6km of the C2B segment. The estimated cost is approximately $1

[34] FRPO Submission, page 2. A similar point is made by Energy Probe at page 3 of its Submission.
[35] Exhibit I.EP.9.

million[36], and delay to carry out this work could result in additional integrity digs having to be completed before the Project proceeds.

32. The subject 4.5km section of the KOL pipeline directly covers a large portion of the congested downtown area of Toronto, where the risk for higher consequence to a pipeline release would be greater. Given the ILI results for the eastern portion of the C2B segment, and the similarities with the balance of the segment, it is reasonable to proceed now with the entire Project.

<u>There is no benefit to deferring the Project until after rebasing</u>

33. Energy Probe submits that Enbridge Gas should be directed to wait until after rebasing to re-file this LTC application, arguing that overheads will be lower at that time (because of productivity savings) and ratepayers will benefit as a result.[37]

34. There is no evidentiary basis to reach the conclusion advanced by Energy Probe. At the time of rebasing, overheads may be lower, but they may also be higher. Presumably, Project costs will be higher, owing to inflation and updated Project routing. What is clear, though, is that if the Project is delayed until after rebasing, then Enbridge Gas will have to take the required actions to safely maintain the existing vintage steel pipeline, and the associated costs will be added to the replacement costs to be incurred. It is not clear to Enbridge Gas that all of this will result in cost savings to ratepayers over the longer term.

D. ENBRIDGE GAS RESPONSES TO OTHER ISSUES RAISED

35. While the main thrust of the submissions from ED, EP, FRPO and PP is that the OEB should delay or defer consideration and approval of the Project, those parties also advance a number of other discrete issues or concerns. Enbridge Gas sets out its response under the subheadings that follow.

[36] Exhibit I.FRPO.2(a).
[37] Energy Probe Submission, pages 4 to 5 and 8.

Project Costs

36. OEB Staff submits that the estimated cost of the Project appears to be reasonable, given the location and the length of the line that is being replaced.[38]

37. While no party challenges the forecast of direct costs of the Project ($107 million), several parties take issue with the contingency costs and indirect overhead costs associated with the Project.

38. The parties who challenge the 30% contingency that Enbridge Gas has applied to its forecast costs of the Project, argue that: (i) it is higher than the average for recent approved projects[39]; (ii) it should be lowered for certain aspects of the Project cost (such as materials and outside services)[40]; and (iii) inflated contingencies should not be included in Project costs.[41]

39. A review of recent OEB-approved LTC applications for Enbridge Gas shows that a 30% contingency is in the accepted range for this type of project (which is different from a system expansion project or other more rural projects).[42] As explained in response to EP Interrogatory #24(a), "[t]he Project is to be constructed in an urban setting in the downtown core of a major city. These construction characteristics and risks associated with the heavily congested buried infrastructure in the city, are very different from the risks associated with building infrastructure in a mostly rural setting." Two recent cases similar to the Project, in that they involved work in congested urban space, each included an approved 30% contingency amount.[43] Enbridge Gas's most recent LTC case (the LCEP application) included an approved 40% contingency

[38] OEB Staff Submission, page 9.
[39] PP Submission, pages 9-10 and Appendix A.
[40] EP Submission, pages 5 to 6.
[41] FRPO Submission, pages 4 to 5.
[42] This can be seen from a review of the LTC projects listed at Appendix A to the PP Submission, where the less urban projects such as Owen Sound, North Bay and Chatham-Kent Rural Project have lower contingency percentages than urban projects such as Bathurst Reinforcement, Don River 30" Pipeline and Liberty Village Project.
[43] See Table 3 in the OEB Staff Submission, at page 11, which references the Keele & CNR Project and the NPS 30 Don River Replacement Project.

amount for station costs, with a 25% contingency for other costs.[44] In that case, the different contingency amount for stations work took into account the novel nature of hydrogen blending facilities.

40. Enbridge Gas does not believe that this is an appropriate case to apply different contingency percentages to different categories of cost. Taking into account the level of project maturity, and the fact that risks often impact more than one cost category at once, a 30% contingency applied to all categories is appropriate. Enbridge Gas recognizes the fact that some risks for certain categories may be higher and some risks for other categories may be lower. The application of a global contingency percentage takes this into account.[45]

41. EP argues that the indirect overheads amount associated with the Project is not supported by an estimate of actual costs of services provided to the Project.[46] However, Enbridge Gas did provide a breakdown of how the indirect overheads amount for the Project was derived.[47] Contrary to EP's allegation, the overhead costs allocated to the Project are actual costs, not notional costs based on the legacy utility's cost base.[48]

42. EP does not argue for any different amount of indirect overheads to be approved for this case. Instead, EP argues that approval of the Project should be delayed until after rebasing, because at that time (according to EP) the indirect overheads will be lower.[49] As already explained[50], there is no evidentiary basis to reach the conclusion advanced by Energy Probe.

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[44] EB-2019-02894 Decision and Order, at pages 19 and 22.
[45] Exhibit I.EP.24(b).
[46] EP Submission, page 6.
[47] Exhibit I.EP.25.
[48] This is not an issue that was raised until argument – Enbridge Gas can confirm that indirect overhead amounts are based on actual or estimated annual costs incurred by the utility that are allocated across eligible capital projects.
[49] EP Submission, pages 6-7.
[50] See para. 34 above.

43. Finally, PP appears to have some confusion about what amounts should be included in the Project costs.[51] To be clear, the Project costs (which total approximately $133 million) are those set out in the prefiled evidence[52] and reproduced in Argument in Chief.[53] Those costs are different from the higher number cited by PP, which is taken from the 2019 Project approval documentation.[54] The reason for the difference in forecast costs is that Enbridge Gas was able to refine and improve its cost estimate during the time between internal approvals (2019) and filing of the LTC application (2020).

44. One main place where the forecast costs changed was in relation to the forecast costs of abandonment (retirement) for the vintage steel pipeline being abandoned in place. Enbridge Gas now forecasts that the cost of retirement (which are included in the material, labour and direct overheads costs for the Project) will be around $2 million.[55] The actual cost of retirement will be charged to accumulated depreciation[56], and will not be part of the costs sought for recovery in an ICM request.[57]

Incremental Capital Module (ICM) Treatment

45. Enbridge Gas has indicated that it will seek 2022 ICM treatment for the cost of this Project, subject to LTC approval and subject to determination of the 2022 ICM threshold for the EGD rate zone.[58] This led to submissions from several parties.

46. EP and FRPO assert that Enbridge Gas will benefit from what they say are inflated contingency costs for the Project by over-recovering ICM revenues during the ICM term.[59] Enbridge Gas denies the basis for this allegation – the forecast costs for the Project are reasonable and appropriate. In any event, though, EP and FRPO fail to

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[51] See PP Submission, page 9.
[52] Exhibit D, Tab 1, Schedule 1, para. 12.
[53] Argument in Chief, para. 31.
[54] See Exhibit I.EP.2, Attachments 1 and 2.
[55] Exhibit I.ED.10(b).
[56] Exhibit I.ED.10(c).
[57] This same approach can be seen in the Company's 2021 ICM requests for the London Line Replacement Project – see EB-2020-0181, Exhibit B, Tab 2, Schedule 1, page 24.
[58] Argument in Chief, para. 49.
[59] FRPO Submission, pages 4 to 5; and EP Submission, page 7.

recognize that there will be a review of the actual Project costs at the time of rebasing. At that time, if the Project costs included in ICM funding had been over-stated then the Board can direct that any over-collection of ICM revenues be refunded to ratepayers.[60]

47. FRPO also asserts that the issue of whether indirect overheads should be included in ICM amounts should be reviewed by the OEB in an upcoming rates proceeding.[61] There are two problems with this submission. First, that very same issue has been raised in Enbridge Gas's 2019 and 2020 rates cases, and the Board has determined that indirect overheads will be included in rate base and ICM funding during the Company's deferred rebasing term.[62] Second, and in any event, the issue raised by FRPO is not one that is necessary or appropriate for the OEB Commissioners hearing this LTC application to determine. It is of course not appropriate for one hearing panel to direct another panel what to consider or determine.[63]

48. Finally on this topic, PP asserts that the OEB should defer its LTC decision until the OEB approves or denies ICM funding for the Project.[64] Enbridge Gas does not agree. The approval of a LTC application is based upon the criteria described above (and detailed in Argument in Chief[65]). LTC approval does not depend on whether or not approval for ICM funding is granted. Indeed, most LTC projects are not subject to ICM funding.

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[60] EB-2014-0219, Report of the Board: New Policy Options for the Funding of Capital Investments: The Advanced Capital Module, at section 7.4 (page 26).
[61] FRPO Submission, pages 5 to 6.
[62] FRPO itself includes references to these determinations in its Submission.
[63] As noted in the EB-2012-0056 Decision and Order, "no prior decision of the Board can fetter the discretion of a later panel" (page 15).
[64] PP Submission, page 12.
[65] See Argument in Chief, paras. 32 to 58.

Scope of LTC Approval

49. EP argues that if the Board should approve this LTC application, the approval should not include the 230 meter lateral on Parliament Street, because it is "too short to require LTC approval".[66] Enbridge Gas disagrees, for the two reasons set out below.

50. First, each of the components of the Project are connected and related. It is appropriate to treat them together for the purpose of LTC approval.

51. Second, even if the Parliament Street lateral was considered to be a separate project (which it is not), it would require LTC approval. Under section 90(1)(b) of the OEB Act, LTC approval is required where, among other things, "the proposed hydrocarbon line is projected to cost more than the amount prescribed by regulations". As set out in O. Reg. 328/03 under the OEB Act, "the amount for the projected cost of a proposed hydrocarbon line for the purposes of clause 90(1)(b) of the Act is $2 million." While this was not the subject of any interrogatories, it is fair to conclude that the 230 meter lateral will cost more than $2 million of the total $133 million Project cost.

Cooperation with City of Toronto (and Metrolinx)

52. Finally, parties raise concerns around the fact that Enbridge Gas has not completed project planning and coordination with the City of Toronto. This is seen as causing potential delay and future disputes. Parties point to the possibility of Enbridge Gas having to file another section 101 application, as was the case for portions of the Windsor Line Replacement Project.[67]

53. Enbridge Gas has many years of experience working with the City of Toronto and other counterparties on large and complex projects. One excellent example of the Company's collaborative approach with the City of Toronto is the successful execution of the Accelerated Cast Iron Replacement program that consisted of numerous simultaneous replacement projects carried out over many years across the City of

[66] EP Submission, page 2.
[67] See, for example, ED Submission, pages 7 and 8; and PP Submission, page 11. The referenced section 101 application (EB-2020-0160) was determined in Enbridge Gas's favour on November 12, 2020.

Toronto (completed in 2012). For the C2B Project, Enbridge Gas will work collaboratively with the City of Toronto to determine a Project schedule and plan that fits with the requirements and limitations identified, including other infrastructure projects.[68] Enbridge Gas will ensure the same cooperation and collaboration with Metrolinx.

54. A common complaint from intervenors is that Enbridge Gas has not yet prepared detailed plans for the Project, identifying all potential infrastructure conflicts and issues.[69] Here again, the approach that Enbridge Gas is taking for this Project is the same as its usual practice. The Company will not commit the time and cost of detailed project planning until after LTC approval has been granted – otherwise, Enbridge Gas runs the risk of non-recovery and wasted effort. That risk is real, as seen by the fact that the same parties who complain that Enbridge Gas has not done enough up-front coordination work also urge the OEB to delay or even deny the LTC application.

55. In its history, Enbridge Gas has only advanced one application under section 101 of the OEB Act. Given the many years of positive relationship between Enbridge Gas and the City of Toronto, there is no reason to expect that this Project will lead to another section 101 application.

56. FRPO asserts that the Project should be "phased" in order to avoid problems and conflicts with City of Toronto projects and infrastructure.[70] Enbridge Gas was not asked about this in interrogatories. The Company can advise, however, that such an approach would be technically challenging, particularly because it would involve multiple "tie-ins" between new and existing pipeline.

57. Tie-ins are the most difficult part of a project. Coordinating multiple tie-ins to existing sections of the C2B pipeline would be unduly expensive and would result in many

[68] This is also discussed at Exhibit I.Toronto.1. See also Exhibit I.Toronto.20 for Enbridge Gas's commitment to work with Toronto on the Environmental Protection Plan and Exhibit I.Toronto.22 for Enbridge Gas's commitment to work with Toronto on a traffic management plan and to coordinate to account for impacts of Gardiner Expressway closures.
[69] See, for example, ED Submission, page 7; and PP Submission, page 11.
[70] FRPO Submission, page 3.

different hydrostatic tests. Additionally, each tie-in weld, by its nature, cannot be tested. Therefore, with phased work, the number of untested welds throughout the pipeline would be increased. Tie-in welds are also challenging because there are two fixed points that are connected. The tie-in pipe has to be pre-tested and when an existing main is cut into it may "spring" and the tie-in must be completed under stress. It is best practice to reduce tie-in welds as much as possible.

Responses to OEB Staff requests for confirmation

58. OEB Staff asked Enbridge Gas to confirm two items in this Reply Submission.

59. First, OEB Staff asked whether the Project will travel along parts of Harbour Street, noting that reference to Harbour Street was removed in the August 27, 2020 updated evidence.[71] Enbridge Gas confirms that none of the C2B replacement pipeline will be under Harbour Street, though it will be adjacent – this can be seen in the map filed at Exhibit I.Toronto,2, Attachment 1, page 2 of 3.

60. Second, OEB Staff asked Enbridge Gas to confirm that the $107 million cost of the Project "is included in the cost of the $240 million 45-kilometre 'Lakeshore' replacement referenced in the EGD Asset Management Plan".[72] Enbridge Gas first notes that the referenced document is not actually an Asset Management Plan, but instead an "Asset Renewal Plan Recommendation/Next Steps" document from 2016.[73] It appears that the numbers in that document (which are stated to be "very rough estimates, for financial magnitude purposes only, not for regulatory usage") may have included the then-forecast cost to repair and where necessary replace the entire Lake Shore KOL pipeline. It should also be noted, though, that by the time the 2018-2027 Asset Management Plan was prepared, the "Class 5" estimate for the Project subject to this LTC application (C2B segment only) was $145 million.[74]

[71] OEB Staff Submission, page 5.
[72] OEB Staff Submission, page 11.
[73] Exhibit I.EP.3 (Attachment 1), page 14.
[74] Exhibit I.EP.3 (Attachment 3), page 3.

E. CONDITIONS OF APPROVAL

61. Enbridge Gas accepts all of the standard Conditions of Approval for the Project as proposed by OEB Staff , except for one item: the Company requests that OEB Staff's proposed item 2a) be amended to stipulate that construction must commence within 18 months of LTC approval, rather than within 12 months.[75]

62. In addition, Enbridge Gas has agreed with Toronto that it would be appropriate to add an additional Condition of Approval stating that "Enbridge Gas shall obtain all necessary approvals, permits, licences, certificates, agreements and rights required to construct, operate and maintain the Project."[76]

63. The combined impact of the agreed Conditions of Approval is to provide the OEB and the public with proper assurances that the Project will be completed responsibly and in compliance with all of the relevant OEB requirements and directions.

64. Notwithstanding the protections provided by the agreed Conditions of Approval, Toronto argues for 13 additional Conditions of Approval, the details of which cover two pages of single-spaced text.[77] Metrolinx argues for 2 additional Conditions of Approval.[78]

65. Enbridge Gas does not believe that the additional proposed Conditions of Approval, which are not typical for LTC applications, are appropriate or necessary. There are four main reasons for this position.

[75] Exhibit I.STAFF.7. This is consistent with the Conditions of Approval for the Don River Replacement Project, a recent project completed in downtown Toronto – see EB-2018-0108 Decision and Order, Schedule B, item 2a).
[76] Argument in Chief, para. 61. Including this additional Condition of Approval is consistent with recent LTC Decisions - see, for example, EB-2019-0188 Decision and Order, Schedule B, item 2.
[77] Toronto Submissions, Appendix A.
[78] Metrolinx Submissions, Appendix A.

i. *The OEB has previously rejected substantially similar Conditions of Approval proposed by Toronto in another LTC proceeding.*

In its Submission, Toronto states that its proposed Conditions of Approval "are supported by OEB precedents".[79] Toronto's Submission lists at least seven OEB LTC decisions that include Conditions of Approval. However, Toronto does not mention or discuss the OEB's recent (March 2020) decision in an Imperial Oil LTC Application.[80] In that case, Toronto and other municipalities argued for inclusion of a long list of proposed Conditions of Approval for Imperial Oil's proposed pipeline replacement project. The proposed Conditions of Approval from Toronto in the Imperial Oil case are substantially similar to what is now proposed by Toronto in this case. In its Decision and Order in the Imperial Oil LTC proceeding, the OEB rejected most, if not all, of Toronto's proposed Conditions of Approval. The OEB's key finding in the Imperial Oil Decision and Order, reproduced below, is also applicable to Toronto's proposed additional Conditions of Approval in this case:

> The OEB finds that the additional conditions proposed by the municipal intervenors are beyond the OEB's mandate and are overseen by other entities (e.g., TSSA). However, the attached conditions of approval require that Imperial Oil acquire all necessary approvals, permits, licences, certificates, agreements and rights required to construct, operate and maintain the Project. This would include any approvals required by affected municipalities.[81]

As was the case in the Imperial Oil LTC proceeding, Enbridge Gas submits that the additional proposed Conditions of Service from Toronto are not necessary or appropriate.

ii. *Most of the proposed additional Conditions of Approval are not needed, since they simply memorialize what already happens and/or what Enbridge Gas has already agreed to do.*

Enbridge Gas does not believe that it is necessary for the OEB to formally include additional Conditions of Approval requiring Enbridge Gas to work with municipal stakeholders on Project details, and to provide those stakeholders with completed plans for project development and emergency response.[82] As explained earlier, Enbridge Gas's practice is to do these things in the ordinary course. That will be the case with both Toronto and Metrolinx. Additionally, Enbridge Gas has already committed, in responses to Toronto's interrogatories, to do most of the specific items listed in Toronto's proposed additional Conditions of Approval.[83] There is no need for lengthy and detailed

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[79] Toronto Submissions, para. 25.
[80] EB-2019-0007 Decision and Order, March 12, 2020. Found at http://www.rds.oeb.ca/HPECMWebDrawer/Record/670198/File/document.
[81] EB-2019-0007 Decision and Order, pages 29 to 30.
[82] This comment relates to Toronto's proposed Conditions of Approval #3 to #8.
[83] For example, Enbridge Gas has agreed to share the following documents/reports with Toronto when they are completed: geotechnical study (Exhibit I.Toronto.3); design drawings (Exhibit I.Toronto.4); as-built plans

Conditions of Service on these items. In the unlikely event that Toronto believes that Enbridge Gas is not meeting its commitments, then Toronto can seek assistance from the OEB to have the Company comply.

iii. *Conditions of Approval related to insurance, financial assurances and indemnity are not needed or appropriate*

In response to Toronto's interrogatories, Enbridge Gas has explained the insurance coverage that it holds, including coverage for construction projects and insurance for Company operations.[84] Enbridge Gas has also explained that its financial standing is expected to be sufficient to satisfy costs and claims associated with the unlikely event of a pipeline emergency.[85] There is no requirement for the additional Conditions of Approval proposed by Toronto related to these items.[86] Including Conditions of Approval such as an indemnity would go beyond what the OEB has required for other LTC approvals. Toronto does not set out any reasons why these type of Conditions of Approval are required for this particular LTC application – the reasons given by Toronto could apply to any urban LTC application. Toronto does not cite any previous LTC case where these type of Conditions of Approval have been approved by the OEB. To the contrary, the OEB specifically declined to include substantially identical additional Conditions of Approval in the Imperial Oil LTC Decision and Order, noting that "both the OEB Act and the Environmental Protection Act impose statutory mechanisms for compensation to landowners in the event of damage".[87]

(Exhibit I.Toronto.6); any site-specific water crossing plans or specifications (Exhibit I.Toronto.18(c)); construction drawings showing the propose alignment and method of construction (Exhibit I.Toronto.19(b)); an Environmental Protection Plan (Exhibit I.Toronto.20); and a project-specific traffic management plan (Exhibit I.Toronto.22). Additionally, Enbridge Gas committed to provide: awareness and training activities (Exhibit I.Toronto.27), technical specialists to assist Toronto's emergency operations centre in responding to a pipeline emergency (Exhibit I.Toronto.28); media relations personnel to assist in the event of a pipeline emergency (Exhibit I.Toronto.29); and annual meetings to review Toronto's emergency plans with a focus on Enbridge Gas's infrastructure (Exhibit I.Toronto.30).

[84] Exhibit I.Toronto.32.

[85] Exhibit I.Toronto.33.

[86] This comment relates to Toronto's proposed Conditions of Approval #9 to #14.

[87] EB-2019-0007 Decision and Order, page 30. The proposed Conditions of Approval from Toronto in the Imperial Oil LTC proceeding re. "Financial Assurances" are found as items 15 to 21 of Appendix A to Toronto's January 24, 2020 Submissions – found at http://www.rds.oeb.ca/HPECMWebDrawer/Record/665964/File/document. Those proposed Conditions of Approval are substantially identical to items 9 to 14 of in Appendix A to the Toronto Submission in this proceeding. (Noting that item #20 from the Imperial Oil proposed Conditions of Approval is not repeated in this current proceeding).

iv. *Inviting municipalities to provide lengthy and project-specific Conditions of Approval for each LTC application will make future cases unreasonably complex.*

Enbridge Gas submits that giving municipalities the opportunity to add long lists of largely generic Conditions of Approval to each LTC application will make the OEB processes more complicated than necessary. It will increase the number of interested parties and the scope of submissions, and will certainly not contribute to regulatory efficiency or reduced regulatory burden. Putting aside the unique circumstances of the recent section 101 proceeding related to the Windsor Line Replacement Project, there are rarely any unresolvable issues or concerns between Enbridge Gas and municipalities and infrastructure companies following LTC approval. In this context, Enbridge Gas submits that inclusion and approval of additional Conditions of Approval beyond the OEB's standard list of conditions will only be appropriate in situations where specific items need to be addressed in order to prevent future problems with the specific project. Enbridge Gas submits that these circumstances do not apply to the proposed additional Conditions of Approval from Toronto and Metrolinx.

F. RELIEF REQUESTED

66. Enbridge Gas requests that the Board make the following Orders:

(i) an Order pursuant to section 90 of the OEB Act granting leave to construct the Project facilities; and

(ii) an Order pursuant to section 97 of the OEB Act approving the proposed form of working area agreements.

67. With leave of the OEB, Enbridge Gas expects to commence construction of the Project in the second quarter of 2021.[88] In order to meet Project timelines, Enbridge Gas respectfully requests the approval of this Application by February 2021.

All of which is respectfully submitted this 17th day of November 2020.

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David Stevens, Aird & Berlis LLP
Counsel to Enbridge Gas

[88] Exhibit B, Tab 1, Schedule 1, para. 32.