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** Certified by the Law Society as a Specialist
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Reply To: NICHOLAS ROLFE

Tel: (416) 392-7246

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Email: nicholas.rolfe@toronto.ca

Sent via email - registrar@oeb.ca and Ritchie.Murray@oeb.ca

November 30, 2020

Ontario Energy Board
2300 Yonge Street, 27th floor
P.O. Box 2319
Toronto, ON M4P 1E4
Attn: R. Murray

Dear Mr. Murray:

**Re: Enbridge Gas Inc.
Application for approval to construct 1.9 kilometres of 20-inch diameter and
approximately eight metres of 24-inch diameter natural gas pipeline (the
"Pipeline") and ancillary facilities in the City of Toronto
Ontario Energy Board File Number: EB-2020-0198.**

The City of Toronto ("Toronto") is applying to be an Intervenor in the above-noted application.

Toronto's interest in this proceeding arises because of its potential impact on lands and infrastructure within Toronto. One issue in particular is that Enbridge is required to remove its 20 inch pipeline that utilizes the Keating Rail Bridge as support to cross the Don River; the City has terminated the permission previously granted to Enbridge in 1955 authorizing use of the Bridge. Confirmation of this was provided to Enbridge by letter dated October 30, 2020. While this letter was copied to the Ontario Energy Board for their information at that time, a copy is attached again for ease of reference.

Toronto intends to participate in the proceeding as necessary, and may submit evidence, argument or interrogatories, and/or cross-examine witnesses. Given the anticipated complexity of the issues associated with the proposed route for the Pipeline, Toronto believes an oral hearing would be appropriate.

Toronto does not intend to seek an award of costs.

Toronto requests that copies of all materials filed in this proceeding be served on it as follows:

David Stonehouse
Director, Waterfront Secretariat
Engineering & Construction Services
City of Toronto
481 University Avenue, 6th floor
Toronto, Ontario M5G 2E9
Tel.: (416) 392-8113
Email: david.stonehouse@toronto.ca

Michele Wright & Nicholas Rolfe
City of Toronto Legal Services
Metro Hall, 23rd Floor
55 John Street
Toronto, Ontario M5V 3C6
Tel.: (416) 392-7246
Fax: (416) 397-5624
Email: michele.a.wright@toronto.ca;
nicholas.rolfe@toronto.ca

Should you have any questions or require further information in this regard, please do not hesitate to contact the undersigned.

Yours truly,

A handwritten signature in blue ink, appearing to read "N. Rolfe", is positioned above the typed name of Nicholas Rolfe.

for Nicholas Rolfe
City of Toronto, Legal Services

Cc: Enbridge Gas Inc.
Waterfront Toronto, I. Ness, General Counsel

Chris Murray, City Manager

**Infrastructure & Development
Services
City Hall**
100 Queen Street West
East Tower, 4th Floor
Toronto, Ontario M5H 2N2

Tel: 416-338-7200
tracey.cook@toronto.ca

October 30, 2020

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

Sent via email: cynthia.hansen@enbridge.com

Attention: Cynthia Hansen
Executive Vice President and President, Gas Distribution and Storage

Dear Ms. Hansen:

Re: Notice of Termination of Enbridge Licence to Utilize Keating Rail Bridge (the "Bridge") to Support a 20" Natural Gas Pipeline ("Pipeline")

Enbridge Gas's NPS 20 Relocation Project application, EB-2020-0198

Further to my letter dated July 31, 2020 and our discussions with Enbridge on August 19, 2020 and subsequently, I am writing to confirm that the licence granted to Enbridge's predecessor, Consumer's Gas Company of Toronto ("Consumer's Gas"), in 1955 to utilize the Keating Rail Bridge to support its natural gas pipeline is terminated.

1955 Cost Indemnity Provided by Consumers' Gas

Given the necessity for Enbridge to remove the Pipeline from the Bridge because its 1955 permission has been terminated, the portion of Enbridge's leave to construct application suggesting that the sole reason for relocation is due to the Port Lands Flood Protection Project and that Waterfront Toronto is responsible for the cost to relocate the Pipeline along the route that Enbridge selected requires correction.

Enbridge's leave to construct application does not address the fact that the February 22, 1955 letter from the Toronto Harbour Commissioner's to Consumers' Gas granting permission to use the Bridge and setting out the terms on which that permission was granted was explicit that all installation and future costs of this work were to be borne by Consumer's Gas (which obligations are now Enbridge's). For your ease of reference, we re-attach a copy of the February 22, 1955 letter previously shared.

As we have advised, in view of the 1955 terms, the cost to remove and relocate the Pipeline must be borne by Enbridge and the *Public Service Works on Highways Act* has no application.

Requirement for Removal of the Pipeline by May, 2022

The complete removal of the Pipeline from all Bridge infrastructure is required as soon as possible, and, in any event, not later than May 02, 2022. For your information, work on the Lakeshore Bridge will commence as of July, 2021, with the anticipated progression of work in this area necessitating the complete removal of Enbridge's infrastructure by the May 02, 2022 deadline indicated.

Since removal of the Pipeline by this deadline requires prompt steps be taken, the City and Waterfront Toronto anticipate that Enbridge will work with the Ontario Energy Board to expedite the proceedings for permission to relocate the Pipeline. This will assist the City and Waterfront Toronto in coordinating with Enbridge to facilitate the cost effective removal of the Pipeline and mitigate the risk of impacts on work planned for the Port Lands.

Next Steps

We would like to confirm with Enbridge that there is no dispute with respect to the legal effect of the City's termination of the 1955 licence permitting Enbridge to utilize the Bridge, and discuss how this issue can best be addressed so that the Ontario Energy Board proceeding is appropriately focused. In this regard, we request a response by November 6, 2020.

Thank you in advance for your anticipated cooperation.

Yours Truly,

A handwritten signature in black ink, appearing to read 'Tracey Cook', written in a cursive style.

Tracey Cook
Deputy City Manager
Infrastructure and Development Services
City of Toronto

Attached:

Letters dated January 28, 1955 and February 22, 1955 between the Toronto Harbour Commissioners and Consumers' Gas Company of Toronto

Copies:

M. Kitchen, Director, Regulatory Affairs, Enbridge, by email
G. Pannu, Senior Legal Counsel, Enbridge, by email
M. Aldred, General Counsel and Chief Operating Officer, Ontario Energy Board, by email to MaryAnne.Aldred@oeb.ca
R. Murray, Case Manager, Ontario Energy Board, by email to Ritchie.Murray@oeb.ca
City of Toronto, City Solicitor's Office and Waterfront Secretariat
Chief Executive Officer, Waterfront Toronto



THE **Consumers' Gas**

COMPANY OF TORONTO

A.L. BISHOP, PRESIDENT
OAKAH L. JONES, VICE-PRESIDENT
AND GENERAL MANAGER
TELEPHONE EM 3-6941

OFFICE OF THE
GENERAL SUPERINTENDENT OF DISTRIBUTION

January 28th. 1955.

Mr. F. R. Phillips,
Acting Chief Engineer
Toronto Harbour Commissioners
60 Harbour St. TORONTO

401 Mr. Siffel
Mr. Phillips



Re: Railway Bridge over Don River - Keating St.

Dear Sir:

The Consumers' Gas Company of Toronto, hereby request permission to use the centre concrete pier of the above mentioned bridge, to support 20 inch steel natural gas main crossing the Don River at this point, as shown on our plan No. 1E2-27.

Thanking you for your co-operation in this matter.

Yours truly,

THE CONSUMERS' GAS CO. OF TORONTO

Wm. Walburn

Wm. Walburn,

Assistant General Supt. of Distribution.

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February 22, 1955.

The Consumers' Gas Company of Toronto,
19 Toronto Street,
Toronto 1.

Attention Mr. Wm. Walburn,
Asst. General Supt. of Distribution.

Dear Sir:-

Replying to your letter of 28th ultimo requesting permission to support your 20" gas main on the centre pier of the Commissioners' Railway Bridge crossing the Don River at Keating Street and as shown on your plan No. 1E2-27, I am now able to advise you as follows.

Your request was placed before the Commissioners at their meeting held on February 15th, 1955, and was approved by them subject to the following conditions:-

- (1) That all costs shall be borne by the Consumers' Gas Company.
- (2) That all local or other by-laws or regulations pertaining to the installation of gas lines shall be observed.
- (3) The Consumers' Gas Company to agree to indemnify and save harmless the Commissioners for any loss, injury or damage whatsoever arising out of the construction, operation, maintenance or existence of the gas pipe line in its location on the bridge. All works undertaken on the bridge in connection with the gas pipe line to be to the satisfaction of the Chief Engineer of the Commissioners and all costs of construction and repair to be the sole expense and responsibility of the Consumers' Gas Company.

Will you please acknowledge receipt and acceptance of the foregoing conditions.

Yours very truly,

FRP/P



Acting Chief Engineer.