

January 27, 2021

SENT VIA EMAIL AND RESS

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

Attention: Ms. Christine Long, Board Secretary

Dear Ms. Long:

**Re: Enbridge Gas Inc. ("Enbridge Gas")  
Notice of Withdrawal – Submission Regarding Waterfront Toronto Letter  
Board File No.: EB-2020-0198**

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We are responding to the letter from Waterfront Toronto dated January 26, 2021 to correct the record. We find the position stated in the January 26, 2021 letter to be 100% inconsistent with the position Waterfront Toronto has been taking throughout this proceeding.

Throughout the proceeding, Waterfront Toronto's position during this Application has been to advocate for a different solution, the utility corridor. The City of Toronto has also opposed the current Application. However, there is no application before this Board for the utility corridor and Enbridge Gas maintains its positions that the utility corridor is not an acceptable alternative.

Any pipeline project other than the current Application must be approved by the Board through a new leave to construct application; complete with the necessary evidence to permit the Board to determine whether such project is in the public interest. In the OEB's decision on the jurisdiction question regarding Waterfront Toronto, the OEB stated that it does have the authority to decline granting leave to construct if the OEB is not satisfied a thorough assessment of alternatives is not considered. In the January 26, 2021 letter, Waterfront Toronto now opposes the very consequence of what it, and the City of Toronto, have been advocating for in this proceeding – a consideration of alternate routes to the route proposed in Enbridge Gas' LTC application. Such an about face is shocking and offensive.

While Enbridge Gas had prepared the Application based upon a need to be relocated by May 2, 2022, Enbridge Gas had recently come to understand that the May 2, 2022 was not as firm as it had been previously told. Prior to the settlement conference, Enbridge Gas had been in discussions with Waterfront Toronto and understands there was considerable flexibility in the time to relocate, particularly if costs of the project were lower than the proposed route. In the Board's decision of Friday, January 22, 2021, on the jurisdiction motion brought by Waterfront Toronto, the Board stated it did not have the jurisdiction to require compensation from Waterfront Toronto. Absent contribution from either Waterfront Toronto or the City, costs of any relocation would be borne by the ratepayers. As such, Enbridge Gas submits it is prudent to consider less expensive alternatives in order for the Board to be able to ensure the any relocation is in the public interest.

## **Safety is an Absolute Must**

Enbridge Gas has been unequivocal in advancing that the utility corridor being advanced by Waterfront Toronto cannot be accomplished safely with the existing NPS 20 pipeline in its current location. Enbridge Gas is responsible for ensuring the safe delivery of gas – not Waterfront Toronto. Enbridge Gas will not take the chance of exposing its infrastructure, its employees and the public to the grave risks that are posed by the proposed Waterfront Toronto construction and the utility corridor option. The pipeline must be relocated to avoid such risks.

The current location of the NPS 20 Vital Main conflicts with the widening of the mouth of the Don River being advanced by Waterfront Toronto as part of the Port Land Flood Protection Project. Enbridge Gas cannot leave the pipeline in its current location given the construction activities that will be necessary to complete the widening of the Don River and the construction of three piers that are in conflict with the existing pipeline. Currently, more than 40 metres of the 175 psig gas line is exposed and it is unsafe to leave the pipeline in its current location during construction. The driving of piles, cranes working overhead, the excavation of the river mouth, the removal of the bridge – construction of new bridge piers cannot be completed safely in close proximity to this 60+ year old high pressure pipeline. Any comment that ignores the inherent risk of working around live gas mains as compared to working in proximity to other utilities should be completely disregarded. One momentary lapse of attention could lead to catastrophic consequences.

Enbridge Gas submits Waterfront Toronto's bald assertions regarding costs of delay and flood risk cannot withstand even rudimentary scrutiny. Waterfront Toronto's proposed solution more than doubles the amount of pipeline that would be exposed and subjected to both construction risks and flood risk. Enbridge Gas submits such risks are unacceptable. Furthermore, Waterfront Toronto incorrectly states that Enbridge Gas is refusing to relocate the pipeline off the Keating bridge. Enbridge Gas' has never advised any party that it will not relocate the pipeline. It has maintained that any relocation is subject to the LTC process.

Enbridge Gas agrees the downtown core must have a reliable, safe supply of gas. Enbridge Gas intends to continue to work to ensure that distribution service is reliable and safe. The current Application achieved those objectives but at a cost that significantly exceeded the costs of other options.

Enbridge Gas was of the view Waterfront Toronto should bear the costs of relocation. Waterfront Toronto has agreed to pay 100% of another gas pipeline relocation project and it was driving both need for the relocation and the timing of relocating. Earlier communication from the City had indicated that contribution to the project would be subject to the *Public Service Works on Highways Act* which would provide at least a partial contribution and ensure ratepayers did not bear 100% of the relocation. Based upon the decision in the motion in this proceeding, it now appears ratepayers may pay 100% of any relocation. Before the ratepayer is held responsible for Waterfront Toronto's failure to budget for the utility relocation; it is prudent to examine for the benefit of all parties other less costly alternatives.

## **The 1955 Letter**

Enbridge Gas disputes the City's interpretation of the 1955 Letter. While there may be a limited right to terminate the occupation of the bridge – relocating the pipeline within the municipal road

allowance because of the conflict with the Waterfront Toronto river widening is not likely subject to the same legal analysis. Further, the granting of leave to construct which is necessary for any relocation project resides solely with the Board.

### **The Path Forward**

Enbridge Gas is planning to review at least 2 other options, that were discussed in the Application, (i) micro-tunneling under the Don River; (ii) Villiers Island. Both of these options were considered early on in the evaluation process but were not pursued given Waterfront Toronto's schedule. These options, based upon the and preliminary Class 5 estimates, were more than \$20 million less than the current Application.

The Board requires evidence upon which it can determine a project is in the public interest. This includes consideration of the project need, environmental considerations, safety, cost, land rights and Indigenous consultation. Assembling such evidence will take time and resources. For example, the micro-tunneling option requires specialized knowledge to ensure the driving of piles to support the roadways will not adversely impact the pipeline. Given the complexities of the alternatives, the need for input from third parties, including Waterfront Toronto and the Toronto and Region Conservation Authority, and experts in tunneling, it cannot commit to a specific date to file a new application.

### **Conclusion**

Enbridge Gas is seeking to withdraw the current Application. After filing the withdrawal, Enbridge Gas had instructed its team to compile a list of inputs it seeks in order to start the assessment of the two options above. Moreover, heading into the settlement conference Enbridge Gas understood from Waterfront Toronto that with its expanded timeline it would allow sufficient time for the alternatives to be considered as well as complete the relocation. It will continue to advance a solution as fast as is practical and will continue to work with various stakeholders throughout the process. That, Enbridge Gas submits is in the interests of ratepayers and the public.

Yours truly,

Aird & Berlis LLP



SCOTT STOLL  
Partner

cc: R. Murray, OEB  
L. Djurdjevic  
Intervenors (EB-2020-0198)