

ONTARIO ENERGY BOARD

IN THE MATTER OF The Ontario Energy Board Act, 1998, S.O. 1998, c.15, Schedule 8, and in particular, S.90.(1) and S.97 thereof;

AND IN THE MATTER OF an Application by Enbridge Gas Inc. for an Order granting leave to construct natural gas pipelines in the City of Toronto.

NOTICE OF INTERVENTION OF

TORONTO WATERFRONT REVITALIZATION CORPORATION

(Operating as WATERFRONT TORONTO)

April 5, 2022

1. On February 24, 2022, Enbridge Gas Inc filed an Application with the Board under section 90 of the *Ontario Energy Board Act* for orders granting leave to construct a pipeline in the City of Toronto consisting of:

a) The “Temporary Bypass”, consisting of approximately 190 m of Nominal Pipe Size (“NPS”) 20-inch high-pressure (“HP”) steel (“ST”) natural gas main located both below grade and above grade along the southern side of the proposed Lake Shore Bridge; and

b) The “Permanent Relocation”, consisting of approximately 160 m of NPS 20-inch HP ST natural gas main located within a newly designed utility corridor along the northern side of the Keating Railway Bridge.

2. Waterfront Toronto requests intervenor status in this Application and intends to participate in the proceeding as necessary. The interests of Waterfront Toronto in this proceeding relate to the development of the Port Lands Flood Protection Project as outlined in the following sections on this Notice.

3. Waterfront Toronto is not seeking an award of costs in this matter. Waterfront Toronto further submits that an oral hearing in this matter is not necessary. This application should proceed through a written process. Waterfront Toronto requests that all materials filed in this proceeding be served on counsel and the following officers of Waterfront Toronto:

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4. Waterfront Toronto has contracted with the Government of Canada, the Government of the Province of Ontario and the City of Toronto to undertake and complete the Port Lands Flood Protection Project (“PLFP”). The objective of the PLFP is to establish and sustain the form, features, and functions of a natural river mouth within the context of a revitalized City environment while providing flood protection.
5. The widening of the Don River and required modifications to Keating Railway Bridge (the “Bridge”) are a key component of the PLFP.
6. Enbridge currently owns and operates a 20 inch NPS HP ST natural case main that is located on the Bridge (the “Enbridge Infrastructure”). The Bridge is controlled, operated, and maintained by CreateTO, an agency of the City of Toronto (the “City”) and the City is the owner of the Bridge.
7. The City gave notice to Enbridge to remove the Enbridge Infrastructure off the Bridge no later than August 30, 2022. The City then brought an application in the Ontario Superior Court of Justice regarding the rights of the City with respect to the Bridge. The Court issued its decision on May 18, 2021, confirming rights of City of Toronto with respect to the Bridge.
8. Discussions between Enbridge and Waterfront Toronto led to an agreement regarding the relocation of the Enbridge Infrastructure off the Bridge on or before April 30, 2023 to a temporary location, before it is relocated to a utility corridor to run parallel to the Bridge once the related work is completed by Waterfront Toronto. The work required of Enbridge to remove, redesign, and relocate certain sections of the Enbridge Infrastructure is described in Appendix 2 of the Agreement between Enbridge and Waterfront Toronto dated February 25, 2022 (the “Agreement”).
9. The Agreement sets out the terms and conditions on which Enbridge will undertake and complete the Enbridge Project Work, as defined therein, the coordination, timing thereof and the compensation Waterfront Toronto will pay Enbridge in respect of the Enbridge Project Work.
10. The need for the Enbridge Project Work was first identified in Enbridge Gas’s EB-2020-0198 application, which was withdrawn on February 19, 2021. A summary of the history of the project can be found within Exhibit B, Tab 1, Schedule 1.
11. Since the withdrawal of the Enbridge Gas EB-2020-0198 application, Enbridge and Waterfront

Toronto have come to an agreement relating to the Enbridge Project Work. It is significant that the costs of the project have been reduced from \$70 million (as originally contemplated by Enbridge) to \$23.5 million.

12. Waterfront Toronto, under the Agreement, is making a \$5 million voluntary contribution to the cost of the Enbridge Project Work. In the application that Enbridge first brought in this matter, Enbridge argued that Waterfront Toronto should be responsible for all of the costs. Waterfront Toronto opposed that request on the grounds that the Ontario Energy Board had no jurisdiction with respect to Waterfront Toronto and was unable to order Waterfront Toronto to pay any portion of the costs. That position was upheld by the OEB in its decision of January 22, 2021 in EB-2020-0198.
13. Waterfront Toronto maintains that the OEB continues not to have any jurisdiction over Waterfront Toronto and no ability to order Waterfront Toronto to pay any portion of the costs of the Enbridge Project Work. By making the voluntary contribution under the Agreement, Waterfront Toronto is not waiving any of its rights with respect to the OEB decision on jurisdiction.
14. Waterfront Toronto does wish to thank Enbridge for its assistance and cooperation to date.
15. Waterfront Toronto requests that the OEB grant the Enbridge leave to construct Application as filed.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 5TH DAY OF APRIL, 2022



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