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**BY EMAIL**

June 9, 2022

Ms. Nancy Marconi  
Registrar  
Ontario Energy Board  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, ON M4P 1E4  
[Registrar@oeb.ca](mailto:Registrar@oeb.ca)

Dear Ms. Marconi:

**Re: Ontario Energy Board (OEB) Staff Submission  
Enbridge Gas Inc. (Enbridge Gas)  
NPS 20 Waterfront Relocation Leave to Construct (LTC) Application  
OEB File Number: EB-2022-0003**

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Please find attached OEB staff's submission in the above referenced proceeding, pursuant to Procedural Order No. 1.

Yours truly,

Ritchie Murray  
Applications – Natural Gas

Encl.

cc: All parties in EB-2022-0003



# **ONTARIO ENERGY BOARD**

## **OEB Staff Submission**

**Enbridge Gas Inc.**

**NPS 20 Waterfront Relocation Leave to Construct Application**

**EB-2022-0003**

**June 9, 2022**

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## Background

The current application is an update to an application originally filed by Enbridge Gas in October 2020 (2020 Application) which was withdrawn so that Enbridge Gas could reassess alternatives to the project proposed in the 2020 Application.<sup>1</sup> When the OEB approved the withdrawal of the 2020 Application, it set out certain expectations for the current application.

In the 2020 Application, Enbridge Gas applied for leave to construct approximately two kilometres of 20-inch diameter pipeline and ancillary facilities (including a new feeder station) in the City of Toronto in order to abandon approximately 155 metres of existing NPS 20 pipeline (Original Pipeline Relocation Project). Enbridge Gas stated that the Original Pipeline Relocation Project was needed to relocate a section of existing pipeline (Existing Pipeline) located on and near the Keating Railway Bridge that conflicts with the construction of Waterfront Toronto's Port Lands Flood Protection and Enabling Infrastructure Project (Flood Protection Project).

The Flood Protection Project is a \$1.25 billion project aimed at revitalizing 800 acres of flood prone land in the Toronto Port Lands and surrounding areas. The Flood Protection Project will widen the mouth of the Don River to better handle flood waters from extreme weather events.

Enbridge Gas advised Waterfront Toronto that it was responsible for 100% of the \$70.5 million cost of the Original Pipeline Relocation Project because Waterfront Toronto requested the relocation. Waterfront Toronto disagreed and suggested that the OEB does not have the jurisdiction to allocate the cost of the project to Waterfront Toronto. Furthermore, Waterfront Toronto and the City of Toronto, an intervenor and owner of the Keating Railway Bridge, disputed whether Enbridge Gas had selected the best option from among the alternatives.

On October 30, 2020, the City of Toronto terminated the license that allowed Enbridge Gas's pipeline to occupy the Keating Railway Bridge and instructed Enbridge Gas to remove the pipeline no later than May 2, 2022.

The City of Toronto also commenced a court application for an order requiring Enbridge Gas to remove the Existing Pipeline from the bridge by August 31, 2022. The Court granted the order and held that Enbridge Gas would be a trespasser if it did not remove the pipeline by August 31, 2022.

On January 22, 2021, the OEB issued a decision that found that the OEB did not have the jurisdiction to impose the costs of the Original Pipeline Relocation Project on

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<sup>1</sup> Enbridge Gas's Original Pipeline Relocation Project application, [EB-2020-0198](#)

Waterfront Toronto.<sup>2</sup>

A settlement conference commenced on January 25, 2021. After the first day of the conference, Enbridge Gas requested to withdraw its application in order to reconsider the project alternatives. Waterfront Toronto did not object to the withdrawal request. The OEB accepted Enbridge Gas's withdrawal request on February 19, 2021.<sup>3</sup>

In its decision that approved Enbridge Gas's request to withdraw the application, the OEB set out a number of expectations for the current application as follows:

- Enbridge Gas would assess all feasible alternatives with a focus on protecting the interests of ratepayers with respect to prices and the reliability and quality of gas service
- Ratepayers would not be asked to pay any amount that exceeds the benefits being delivered to them
- Issues between Enbridge Gas and Waterfront Toronto and/or the City of Toronto regarding schedule, legal rights and cost responsibility would be resolved before the new application is filed
- Enbridge Gas would allow sufficient time for the OEB to conduct a proper review of the new application<sup>4</sup>

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<sup>2</sup> EB-2020-0198, Decision on Jurisdiction, January 22, 2021

<sup>3</sup> EB-2020-0198, Decision and Order on Application Withdrawal Request, February 19, 2021

<sup>4</sup> Ibid., p. 13

## Application Summary

On February 24, 2022, Enbridge Gas filed the current application for a new preferred pipeline route and construction schedule (Project). The Project is supported by Waterfront Toronto and the City of Toronto.

The Project would involve the construction of a temporary 190 metre 20-inch diameter pipeline (Temporary Bypass). The Temporary Bypass would be located on the existing Lake Shore Bridge. The Temporary Bypass would maintain current service levels to the downtown Toronto area while a permanent 160 metre 20-inch diameter pipeline is constructed (Permanent Pipeline). The Permanent Pipeline would be constructed within a newly designed utility corridor to be located on the elongated Keating Railway Bridge (New Utility Corridor). The Project would result in a like-for-like replacement of existing capacity.

Enbridge Gas selected the Project from several facilities alternatives and provided rationale for why Integrated Resource Planning (IRP) is not an alternative.

The Project is estimated to cost \$23.5 million, which is approximately \$47 million or 67% lower than the Original Pipeline Relocation Project. As a result of negotiations with Enbridge Gas, Waterfront Toronto would contribute \$5 million to the Project making the net cost to Enbridge Gas \$18.5 million.

Enbridge Gas stated that it will be entering into an updated license agreement with the City of Toronto and its operator, CreateTO (as required), to utilize the New Utility Corridor for the Permanent Pipeline. Furthermore, the City of Toronto stated that it is prepared to allow Enbridge Gas to remain on the existing Keating Railway Bridge until April 30, 2023,<sup>5</sup> which is when the Temporary Bypass must be operational.

Enbridge Gas stated that with the implementation of the mitigation and protective measures outlined in the Environmental Report and pending Environmental Protection Plan, the environmental impacts resulting from construction of the Project are not anticipated to be significant.

The majority of the Project is located within a municipal road allowance and a bylaw or easement may be required where municipal road allowances are not dedicated. Enbridge Gas is seeking OEB approval of its forms of working area agreement and easement agreement.

The Ministry of Energy has determined that the Project does not trigger the Crown's Duty to Consult.

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<sup>5</sup> Exhibit B-1-1 Attachment 3

In addition to Waterfront Toronto and the City of Toronto, intervenors in the proceeding include Energy Probe, Environmental Defence, Pollution Probe and the School Energy Coalition.

## OEB Staff Submission

OEB staff submits that the OEB should approve the application and apply its [standard conditions of approval](#). In addition, the OEB should require Enbridge Gas to file with the OEB, in Enbridge Gas's upcoming rebasing application and in the current proceeding, a copy of the executed licence agreement between it and the City of Toronto for the utility's use of the City of Toronto's New Utility Corridor. As discussed below, OEB staff submits that the license agreement will have costs that impact Enbridge Gas's ratepayers.

The OEB's legislative authority with respect to applications seeking approval for the construction of hydrocarbon pipelines is set out in Sections 90, 91 and 96(1) of the *Ontario Energy Board Act, 1998* (OEB Act). When determining whether a project is in the public interest, the OEB typically examines the need for the project, project alternatives, project cost and economics, environmental impacts, land matters, and Indigenous consultation. These factors comprise the OEB's [Section 90 and 91 Leave to Construct Issues List](#). Each of these factors are addressed below.

### Need for the Project

OEB staff submits that Enbridge Gas has demonstrated that the Project is needed, that it is not part of a multi-phase project, and that the project schedule is reasonable.

The Project is needed to relocate a section of Existing Pipeline located on and near the Keating Railway Bridge that conflicts with the construction of Waterfront Toronto's Flood Protection Project. Neither in the 2020 Application nor to date in the current proceeding has any party questioned whether the Project is needed.

OEB staff submits that the Project is not part of a multi-phase project. Enbridge Gas stated that the Project was identified in its Asset Management Plan Addendum, which was filed in its 2022 Rates Proceeding.<sup>6</sup> The Project does not contain any planned future phases and is not dependent upon any previously filed leave to construct application by Enbridge Gas. The Project does not have a growth component associated with it.

In its decision that approved Enbridge Gas's request to withdraw the 2020 Application, the OEB stated that it expected that Enbridge Gas would allow sufficient time for the OEB to conduct a proper review of the updated application. Enbridge Gas anticipates a decision from the OEB in September 2022. OEB staff submits that Enbridge Gas has provided sufficient time for the OEB to conduct a proper review of the updated application.

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<sup>6</sup> EB-2021-0148, Exhibit B-2-3, EGI Asset Management Plan Addendum – 2022, pp. 9, 12.



## Project Alternatives

OEB staff submits that Enbridge Gas has adequately considered all viable alternatives to the Project and has demonstrated that the need to relocate the Existing Pipeline is best addressed by the Project.

In its decision that approved Enbridge Gas's request to withdraw the 2020 Application, the OEB stated that it expected that Enbridge Gas would assess all feasible alternatives with a focus on protecting the interests of ratepayers with respect to prices and the reliability and quality of gas service. Enbridge Gas considered several facilities alternatives and provided rationale for why IRP is not an alternative.

### Pipeline Alternatives

Enbridge Gas provided several pipeline alternatives that it considered, including:

- a) Micro-tunnel under the Don River (capital cost of \$47.5 million)
- b) Keating Bridge Utility Corridor with Temporary Bypass on Pedestrian Bridge (capital cost of \$45.4 million)
- c) Keating Bridge Utility Corridor with Temporary Bypass on Lake Shore Bridge (capital cost of \$23.5 million)<sup>7</sup>
- d) Keating Bridge Utility Corridor without Temporary Bypass (un-costed)

In terms of comparing the alternatives, Enbridge Gas stated that a Discounted Cash Flow (DCF) assessment was not completed because the Project is underpinned by compliance requirements and will not create any incremental capacity or new revenues from customers. Therefore, Enbridge Gas compared the alternatives based on:<sup>8</sup>

- Capital cost
- Safety risks
- Land constraints
- Ability to meet Waterfront Toronto's schedule

As discussed later in this submission, the evidence shows that Enbridge Gas also took into consideration environmental impacts, and impacts on (amongst others) Indigenous peoples and their rights, municipalities and landowners.

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<sup>7</sup> This is Enbridge Gas's new preferred alternative

<sup>8</sup> Application, Exhibit C-1-1, paragraphs 10-19

## Integrated Resource Planning

After Enbridge Gas withdrew the 2020 Application, the OEB issued its Decision and Order for Enbridge Gas's IRP Framework Proposal and accompanying IRP Framework for Enbridge Gas.<sup>9</sup> In part, the OEB's decision states:<sup>10</sup>

**Timing** - If an identified system constraint/need must be met in under three years, an IRP Plan could not likely be implemented and its ability to resolve the identified system constraint could not be verified in time. Therefore, an IRP evaluation is not required. Exceptions to this criterion could include consideration of supply-side IRPAs and bridging or market-based alternatives where such IRPAs can address a more imminent need.

Enbridge Gas noted that Waterfront Toronto requires the removal of the Existing Pipeline from the Keating Railway Bridge to the south side of the Lake Shore Bridge by April 30, 2023. Enbridge Gas stated that this timeframe does not provide adequate time for it to implement a demand side IRP Plan to remove the Existing Pipeline and continue to reliably serve the natural gas demands of its customers. Furthermore, since the Existing Pipeline is embedded within Enbridge Gas's distribution pipeline network, there is no ability for a third-party natural gas market participant to deliver gas directly to the region served by the Existing Pipeline. Therefore, market-based supply side alternatives do not exist to meet the Project need.

OEB staff agrees that IRP alternatives are not applicable in this case.

## Preferred Alternative

In the current application, Enbridge Gas proposed the Keating Bridge Utility Corridor with Temporary Bypass on Lake Shore Bridge option. Waterfront Toronto and the City of Toronto support this option.<sup>11</sup> OEB staff agrees that this is the most appropriate option among the alternatives.

## **Project Cost and Economics**

OEB staff submits that the Project cost is reasonable, and that Enbridge Gas appropriately assessed the project economics. However, OEB staff notes that the terms and conditions of the pending licence agreement between Enbridge Gas and the City of Toronto for the New Utility Corridor have not been filed on the record of this proceeding. The agreement will have costs that impact Enbridge Gas's ratepayers. OEB staff's

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<sup>9</sup> EB-2020-0091, Decision and Order, July 22, 2021

<sup>10</sup> Ibid., Appendix A, page 10

<sup>11</sup> E.g., Waterfront Toronto is contributing \$5 million toward the Project and the City of Toronto intends to enter into a licence agreement with Enbridge Gas for the utility's use of the New Utility Corridor.

submission on this issue is set out further below.

### Estimate of the Project Cost

OEB staff submits that Enbridge Gas has provided sufficient information to demonstrate that the Project cost estimate is reasonable.

The Project is estimated to cost \$23.5 million, which is approximately \$47 million or 67% lower than the Original Pipeline Relocation Project (that was comprised of a longer pipeline and a new feeder station). Waterfront Toronto would contribute \$5 million to the Project making the net cost to Enbridge Gas \$18.5 million.

OEB staff has compared the cost estimate of the Project to those of other recent facilities projects including the Cherry to Bathurst NPS 20 Replacement,<sup>12</sup> the St. Laurent Ottawa North Replacement Project,<sup>13</sup> and the NPS 30 Don River Replacement Project.<sup>14</sup> Although the construction methodologies are different (e.g., open trench, above ground, bridge crossing, microtunnelling), the NPS 30 Don River Replacement Project appears to be the most comparable. The unit cost of the Project is approximately \$67,000 / metre and that of the NPS 30 Don River Replacement Project was approximately \$72,700 / metre.<sup>15</sup> OEB staff accepts Enbridge Gas's explanation that the differences in project unit costs relate to such things as pipeline diameter, length, and the relative complexity of the work.

### Project Risks and Contingency

OEB staff submits that Enbridge Gas has adequately identified and described risks associated with the Project and that the proposed contingency budget is appropriate and consistent with these identified risks.

The cost estimate includes a 30% contingency applied to all direct capital and abandonment costs to reflect the preliminary design stage of the Project. Enbridge Gas noted that this contingency amount has been calculated based on the risk profile of the Project and is consistent with contingency amounts calculated for similar projects – specifically Cherry to Bathurst NPS 20 Replacement, the St. Laurent Ottawa North Replacement Project,<sup>16</sup> and the NPS 30 Don River Replacement Project.<sup>17</sup>

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<sup>12</sup> EB-2020-0136, Decision and Order, December 17, 2020

<sup>13</sup> EB-2020-0293, Decision and Order, May 3, 2022. The OEB did not approve this application because Enbridge Gas did not sufficiently demonstrate the need.

<sup>14</sup> EB-2018-0108, Decision and Order, November 30, 2018

<sup>15</sup> OEB staff interrogatory No. 3, Preamble; Enbridge Gas's response to OEB staff interrogatory No. 3 d)

<sup>16</sup> EB-2020-0293, Decision and Order, May 3, 2022. The OEB was silent on whether the contingency amount was acceptable.

<sup>17</sup> Enbridge Gas's response to OEB staff interrogatory No. 3 d)

The risks facing the Project include:<sup>18</sup>

- a) Standard construction risks encountered in the downtown Toronto area which include encountering unknown abandoned utilities and subsurface structures which were not identified in the subsurface utility engineering studies
- b) Issues with the weldability of the NPS 20 pipeline due to laminations which will involve tracing the existing gas main back to find a weldable location for tapping equipment (thus lengthening the overall Project relocation and footprint)
- c) Environmental risks brought on by contaminated soils
- d) Proximity to the Keating Channel

In an interrogatory response, Enbridge Gas confirmed that it used the American Association of Cost Engineers International Cost Estimate Classification System to establish the estimated cost of the Project, including the contingency.<sup>19</sup> The Project cost estimate is a Class 4 estimate. OEB staff submits that, even though the Project cost estimate is not mature (e.g., it is not a Class 3 or 2) and therefore there remains a level of uncertainty about its likely amount, even with this uncertainty the total Project cost is likely to be far than the Original Pipeline Relocation Project or any of the alternatives.

### Project Economics

OEB staff agrees with Enbridge Gas's position that a DCF assessment in accordance with [EBO 188](#) or [EBO 134](#) is not needed because the Project is underpinned by compliance requirements and will not create any incremental capacity or new revenues from customers.

OEB staff notes that a contribution in aid of construction is not required in this case and that the OEB has no authority to impose any portion of the Project costs on Waterfront Toronto or any other entity. Waterfront Toronto's contribution of \$5 million benefits Enbridge Gas's ratepayers as it reduces the costs that would otherwise be borne by these customers. OEB staff notes that Waterfront Toronto is also contributing the cost for the removal and disposal of the Existing Pipeline, which also benefits Enbridge Gas's ratepayers.

### Ratepayers Not to Pay Amount that Exceeds Benefits

Unlike the 2020 Application, in which Enbridge Gas proposed that Waterfront Toronto be responsible for 100% of the costs, the current application proposes that the majority of the costs would be borne by ratepayers. In terms of the OEB's expectation that

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<sup>18</sup> Enbridge Gas's response to OEB staff interrogatory No. 3 f)

<sup>19</sup> OEB staff interrogatory No. 3 e)

ratepayers would not be asked to pay any amount that exceeds the benefits being delivered to them, Enbridge Gas stated that:

- It has determined a new mutually agreed upon preferred alternative route and construction schedule
- The new alternative results in over \$45 million in project cost avoidance when compared to the alternative previously proposed
- An agreement has been reached and is in the process of being executed between Enbridge Gas and Waterfront Toronto regarding the sharing of Project costs; as a result, Waterfront Toronto will contribute \$5 million to the Project
- It has prudently managed the potential ratepayer impacts of the Project by determining a new, lower cost preferred alternative and negotiating a fair contribution to the Project from Waterfront Toronto
- There is no lower cost alternative to meet the Project need while ensuring reliability of gas service to customers in the Toronto region
- Ratepayers are benefiting from the Project by continuing to receive safe and reliable natural gas amidst Enbridge Gas being required to relocate this critical pipeline

OEB staff submits that Enbridge Gas seems to be taking appropriate steps to ensure that ratepayers would not be asked to pay any amount that exceeds the benefits being delivered to them. However, OEB staff notes that the terms and conditions of the pending licence agreement between Enbridge Gas and the City of Toronto for the New Utility Corridor have not been filed on the record of this proceeding. The agreement will have costs that impact Enbridge Gas's ratepayers – some of which may not be included in the \$23.5 million cost estimate for the Project. Enbridge Gas stated that it expects to finalize this agreement by the end of August 2022.<sup>20</sup>

The new licence agreement will contain at least one unquantified cost – the “proportionate contribution” toward the capital maintenance and repair of the New Utility Corridor. Enbridge Gas stated that it is unable, at this time, to provide information on the anticipated terms and conditions of the licence agreement or provide an estimate for the amount of its contribution. There is no evidence on the record of this proceeding as to what other ongoing costs may be included in the agreement or whether the proportionate contribution or any other costs escalate over time. Any operating costs in the licence agreement would be passed through to ratepayers. In addition, there may be

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<sup>20</sup> Enbridge Gas's response to OEB staff interrogatory No. 1 a)

provisions in the licence agreement, such as termination provisions, that could result in costs borne by ratepayers.

OEB staff expects that the costs in the new licence agreement are not likely to be significant. However, OEB staff invites Enbridge Gas to provide a ballpark estimate as to the potential quantum of these costs in its reply submission. Given that the executed licence agreement will not be available prior to the record closing in the current proceeding, and assuming that the costs of this licence agreement will not likely be significant, OEB staff submits that the OEB should require Enbridge Gas to file a copy of the executed licence agreement as part of Enbridge Gas's upcoming rebasing application. Enbridge Gas should also file evidence supporting the reasonableness of the executed licence agreement as part of the rebasing application. The OEB can review the reasonableness of the noted executed license agreement in terms of its impact on ratepayers as part of the rebasing proceeding.

For the purpose of completing the record of this proceeding, OEB staff submits that the executed licence agreement should also be filed on the record of the current proceeding. However, OEB staff is of the view that the OEB's review of the executed licence agreement should occur as part of the rebasing proceeding and not the current proceeding as the record will be closed in the current proceeding at the time that the licence agreement is available. In other words, OEB staff submits that the OEB should not delay its decision to grant a final leave to construct approval for the Project until after it has reviewed the licence agreement.

In the alternative that the OEB determines that it must review the new licence agreement before making its final decision in this proceeding, additional information would be required. OEB staff asks that Enbridge Gas provide in its reply submission the most recent information regarding the expected timing that the licence agreement will be available for filing with the OEB. In addition, OEB staff asks that Enbridge Gas comment on the potential for the OEB to initiate a focussed review on this licence agreement as phase 2 of this proceeding, prior to issuing final leave to construct approval, without disrupting the construction schedule.

OEB staff notes that if the OEB is inclined to take this phased approach, then it could proceed to grant phase 1 approval on all other matters at this time, but no final leave would be granted until the completion of phase 2.

## Environmental Impacts

OEB staff submits that Enbridge Gas's Environmental Report (ER) meets the requirements of the [OEB's Environmental Guidelines](#)<sup>21</sup>. The ER appropriately identifies

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<sup>21</sup> Ontario Energy Board Environmental Guidelines for the Location, Construction and Operation of

the environmental impacts associated with construction of the Project and adequately describes how it intends to mitigate and manage these impacts.

Enbridge Gas retained Stantec Consulting Ltd. to undertake a route evaluation and prepare an updated environmental and socio-economic impact study for the Project. As part of development of the study, a consultation program was implemented to receive input from interested and potentially affected parties including Indigenous communities.

The updated ER concluded that, with the implementation of specified mitigation and protective measures, the environmental impacts resulting from construction of the Project are not anticipated to be significant.

The updated ER was submitted to the Ontario Pipeline Coordinating Committee (OPCC), the Toronto and Region Conservation Authority (TRCA), the City of Toronto, and the Mississaugas of the Credit First Nation on December 17, 2021. An updated consultation log covering the period between December 17, 2021, and February 22, 2022 has been included in the application.<sup>22</sup> Of note are:

- Comments from the Ministry of Heritage, Sport, Tourism and Culture Industries (Ministry of Heritage) regarding an additional required Stage 1 Archaeological Assessment (AA), which Enbridge Gas responded would be completed and filed by February 21, 2022
- Comments from the TRCA regarding (a) the clarification of impacts to the Don Roadway Flood Protection Landform and (b) sediment and debris management, which Enbridge Gas responded would be provided as part of the TRCA permitting process prior to construction.

OEB staff asked an interrogatory about the status of the additional Stage 1 AA. Enbridge Gas responded that an additional Stage 1 AA was submitted on February 23, 2022 to assess the archaeological potential of the Project route, which was not previously evaluated in 2018. The report was entered into the Ontario Public Register of Archaeological Reports by the Ministry of Heritage on April 5, 2022.<sup>23</sup>

OEB staff also asked an interrogatory about the status of any permits from the TRCA. Enbridge Gas responded that no permits have been applied for with the TRCA. However, Enbridge Gas does not foresee any issues in obtaining permits from the TRCA, should the OEB grant Enbridge Gas leave to construct the Project.<sup>24</sup>

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Hydrocarbon Pipelines and Facilities in Ontario, 7<sup>th</sup> Edition, 2016

<sup>22</sup> Exhibit F-1-1, Attachment 2

<sup>23</sup> Enbridge Gas's response to OEB staff interrogatory No. 5 a) and its Attachment 1

<sup>24</sup> Enbridge Gas's response to OEB staff interrogatory No. 5 b)

Enbridge Gas stated that an updated Environmental Protection Plan would be developed for the Project that incorporates recommended mitigation measures from the ER and feedback from the OPCC, TRCA, the City of Toronto, and Waterfront Toronto.

### **Route Map and Form of Landowner Agreements**

OEB staff has no issues or concerns with the route map or forms of landowner agreement.

All phases of the Project will be constructed within road allowances in the City of Toronto apart from the Keating Railway Bridge, which is owned by the City of Toronto (and operated by CreateTO), for which the new licence agreement is required.

The Permanent Relocation phase of the Project will be located within the road allowance and easements will not be required.<sup>25</sup>

For the Temporary Bypass, Enbridge Gas stated that it is currently working with Waterfront Toronto on the proposed alignment. Once the alignment has been finalized, Enbridge Gas will then determine if easements are required. Enbridge Gas has discussed the requirements of the Project with Waterfront Toronto and does not anticipate any issues acquiring easement or bylaw land rights, if necessary, for the Temporary Bypass.<sup>26</sup>

Temporary working areas may be required to facilitate construction.

Enbridge Gas filed its forms of easement agreement and working area agreement for OEB approval. Enbridge Gas confirmed that the forms of agreement filed in this proceeding had been previously approved by the OEB for use in Enbridge Gas's Innes Road Project,<sup>27</sup> and that no changes have been made to the forms of agreement since they were last approved.<sup>28</sup>

### **Indigenous Consultation**

OEB staff has no issues or concerns with respect to Indigenous consultation.

The Ministry of Energy has determined that the Project does not trigger the Duty to Consult. The Ministry encouraged Enbridge Gas to engage and provide Project updates to the Mississaugas of the Credit First Nation, which Enbridge Gas did.<sup>29</sup>

No Indigenous communities filed a letter of comment or sought intervenor status in this

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<sup>25</sup> Enbridge Gas's response to OEB staff interrogatory No. 6 a)

<sup>26</sup> Ibid.

<sup>27</sup> EB-2012-0438, OEB Decision and Order, April 11, 2013, pp. 5-6

<sup>28</sup> Enbridge Gas's response to OEB staff interrogatory No. 6 b)

<sup>29</sup> Exhibit F-1-1, Attachment 2



proceeding.

### **Conditions of Approval**

OEB staff submits that the OEB's use of its standard conditions of approval are sufficient in this case, and that no modifications or additions are required.

OEB staff notes that standard condition No. 3 would require Enbridge Gas to obtain all necessary approvals, permits, licences, certificates, agreements and rights required to construct, operate and maintain the Project.

~All of which is respectfully submitted~