

IN THE MATTER OF the *Ontario Energy Board Act, 1998*,
S.O. 1998, c. 15, Schedule B; and in particular sections
91(1) and 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 Municipality of Chatham-Kent.

ENBRIDGE GAS INC.

REPLY SUBMISSION

OEB File No. EB-2022-0203

January 9, 2023

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INTRODUCTION

1. Pursuant to Procedural Order No. 1 issued by the Ontario Energy Board (“OEB”) on October 31, 2022, this is the reply submission of Enbridge Gas Inc. (“Enbridge Gas” or the “Company”) related to the construction of a natural gas distribution pipeline in the Municipality of Chatham-Kent to connect a single renewable natural gas (“RNG”) producer to the existing Enbridge Gas local distribution system.
2. Waste Connections of Canada Inc. (“Waste Connections”) is planning to construct and operate new RNG gathering, upgrading and compression facilities at the existing Ridge Landfill site near the community of Blenheim in the Municipality of Chatham-Kent, Ontario (the “RNG Facility”). In order to facilitate injection of the RNG volumes produced at its RNG Facility, Waste Connections has requested that Enbridge Gas construct new pipeline facilities to connect it to the existing local Enbridge Gas natural gas distribution system. In addition to the proposed pipeline, Waste Connections also requires Enbridge Gas to construct an RNG injection station at the Ridge Landfill site. The RNG injection station will connect to the proposed pipeline downstream of Waste Connection’s upgrading and compression facilities. Together, the proposed pipeline and RNG injection station are referred to as the “Project”.
3. Enbridge Gas and Waste Connections have executed an M13 agreement that includes provision for the payment of a contribution in aid of construction (“CIAC”) for the full cost of the Project construction, resulting in a net investment of \$0 from ratepayers.
4. Enbridge Gas is seeking an order from the OEB granting leave to construct approximately 5.7 km of Nominal Pipe Size (“NPS”) 4-inch extra-high pressure (“XHP”) steel (“ST”) natural gas distribution pipeline (“Application”).

5. With the necessary approvals of the OEB, Enbridge Gas expects to construct the Project between March and November of 2023. To meet the proposed Project construction timelines, Enbridge Gas respectfully requests approval of this Application as soon as possible.
6. Submissions on the evidence in this proceeding were filed by OEB staff, the Federation of Rental-housing Providers of Ontario (“FRPO”) and Pollution Probe.
7. Pollution Probe raised several issues (addressed by Enbridge Gas below) but generally supports approval of the Project. OEB staff expressed full support for approval of the Project and raised no concerns:¹

OEB staff supports the approval of Enbridge Gas’s leave to construct application, subject to the conditions of approval contained in Schedule A of this submission. OEB staff also supports the approval of the forms of agreement for permanent easement and temporary land use proposed by Enbridge Gas.²

8. FRPO does not support approval of the Project on the basis that “EGI has not provided evidence that demonstrates that its approach to this project facilitates access of RNG producers” and insists that additional alternatives analysis should be produced by Enbridge Gas.³ The OEB should reject FRPO’s requests in this regard as they are made without basis in the evidence before the OEB and have been advanced through argument rather than through written interrogatories as prescribed by the OEB.
9. Contradictory to FRPO’s statement, Waste Connections’ request for facilities as well as the executed M13 agreement between Enbridge Gas and Waste

¹ With the exception of OEB staff’s recommendations regarding procedure in the case that a letter from the MOE confirming the sufficiency of Enbridge Gas’s Indigenous consultation activities is not received before an OEB decision is made (found at OEB staff Submission, December 16, 2022, pp. 6-8).

² OEB staff Submission, December 16, 2022, p. 1

³ FRPO Submission, December 16, 2022, pp. 1-5

Connections, demonstrates that access for RNG producers (in this case Waste Connections) to Enbridge Gas's existing natural gas distribution network has been adequately facilitated and that the established charges and rates agreed to in the M13 contract do not inhibit the economics of the Project from the producer's perspective. Further, as the natural gas system planner and operator, Enbridge Gas is accountable to ensure the efficient, safe, prudent and reliable expansion and operation of its facilities. To assist the OEB, the Company responds to FRPO's requests in greater detail within the Project Alternatives section below.

10. Through the balance of this submission, Enbridge Gas highlights the submissions of OEB staff supporting the Project and responds to the specific submissions and recommendations of OEB staff, FRPO and Pollution Probe. Please note, instances where the Company does not respond to a particular issue raised by FRPO or Pollution Probe should not be taken as agreement with their position.

11. Regarding Pollution Probe's recommendation for Enbridge Gas to refile the response to Exhibit I.PP.4 part a) to include the full e-mail chain,⁴ Enbridge Gas submits that no additional information is provided in the remainder of the e-mail chain that is relevant to the question posed by Pollution Probe. Enbridge Gas affirms that the response to Exhibit I.PP.4 part a) is complete as the e-mail filed at Exhibit I.PP.2, Attachment 1 includes the Project parameters for landfill gas RNG production provided by Waste Connections that represents formal commencement of the Project.

⁴ Pollution Probe Submission, December 13, 2022, p. 6

PROJECT NEED

12. On the issue of Project need, Enbridge Gas has described:

- (i) The request from Waste Connections that Enbridge Gas construct new pipeline facilities to connect its planned RNG Facility to Enbridge Gas's existing local distribution system to facilitate injection of RNG supply volumes produced at the facility;
- (ii) That the proposed pipeline is designed to meet the requested RNG injection volumes only and does not contribute to any future growth plans in the area; and
- (iii) That the Project is underpinned by the M13 service (Union South Transportation of Locally Produced Gas) contract executed between Enbridge Gas and Waste Connections, effective July 28, 2022.⁵ As described above, the M13 service contract includes a provision for the payment by Waste Connections of a CIAC for the full amount of the Project construction cost.

13. OEB staff affirms that the need for the Project has been demonstrated in their submission:

Based on the evidence filed by Enbridge Gas, OEB staff submits that there is a need for the Project.⁶

14. Pollution Probe made submissions regarding the carbon intensity and "emissions credits" related to the RNG produced at the RNG Facility by Waste Connections, as well as the emissions reduction estimate provided by Enbridge Gas in the Notice of Study Commencement for the Project.

15. As indicated by Enbridge Gas in response to interrogatories,⁷ and as reiterated by OEB staff in its submissions:

⁵ Exhibit E, Tab 1, Schedule 1, Attachment 1

⁶ OEB staff Submission, December 16, 2022, p. 5

⁷ Exhibit I.STAFF.1, part b) and Exhibit I.PP.6, part c)

Enbridge Gas has no planned purchases of RNG from Waste Connections and is not seeking any approvals with respect to the purchase of RNG volumes as part of the current proceeding. Enbridge Gas noted that it would only procure RNG from Waste Connections if it was the successful bidder in a future Request for Proposal (RFP) process as part of the OEB-approved Voluntary RNG Program or if subsequent approvals were received to recover the costs associated with RNG in the gas supply portfolio.⁸

16. As Enbridge Gas has no current plans to purchase the RNG produced by Waste Connections at its RNG Facility and Project need is not justified on this basis, the issues raised by Pollution Probe with regard to the carbon intensity, emissions credits and emissions reduction estimate for the RNG produced at the Ridge Landfill Facility by Waste Connections are not relevant to the approvals sought for the Project and exceed the scope of the current proceeding.
17. Similarly, and as recognized by Pollution Probe,⁹ the broader policy issues raised by Pollution Probe (including the definition of RNG and OEB guidance for calculating emissions reduction achieved through RNG compared to conventional natural gas) also exceed the scope of the current proceeding.
18. With respect to the future use of the proposed pipeline, Pollution Probe states that maximizing access to the pipeline is in the public interest and that Enbridge Gas should not restrict future customers from attaching to the pipeline. Pollution Probe further seeks clarification as to whether the proposed pipeline will be used to provide natural gas to Waste Connections.
19. As stated in Exhibit I.STAFF.1, Enbridge Gas does not have any current plans to attach other customers to this pipeline. However, this does not preclude the Company from attaching customers to this pipeline in the future.

⁸ OEB staff Submission, December 16, 2022, p. 2

⁹ Pollution Probe Submission, December 13, 2022, p.3, "Defining that process is beyond the scope of this proceeding, but will become more important if Enbridge or the OEB believes that RNG could play a potential decarbonization role in Ontario".

As part of Enbridge Gas' feasibility analysis, if customer(s) request gas service within the vicinity of the Project, the pipeline would be considered as an option to service them. However, as noted above, the proposed pipeline is designed to meet the requested RNG injection volumes only and does not contribute to any future growth plans in the area.

20. Further, as stated in Exhibit I.PP.1, Enbridge Gas is currently working with Waste Connections to determine their pressure, hourly, daily and annual forecast natural gas usage. At this time, the Company has not made a determination on whether the Project will be used to service the Ridge Landfill Facility with natural gas. Any natural gas services constructed by Enbridge Gas for Waste Connections' ancillary facilities are distinct from the current Project.

21. In its submission, Pollution Probe also recommends that "all projects be included in future AMP iterations to ensure a consistent assessment and treatment".¹⁰ Enbridge Gas does not support Pollution Probe's recommendations in this regard as they have much broader implications than, and exceed the scope of, the current proceeding (as they amount to a significant deviation from the existing practice of excluding non-core Projects from the Company's Asset Management Plan ("AMP")).

22. In general, Pollution Probe recommends that the OEB issue an order granting leave to construct the Project because Project need has been established:

Pollution Probe recommends that the OEB approve the Leave to Construct request for this project, given that Waste Connections has agreed to pay the capital costs and will pay the related annual O&M costs.¹¹

Regardless of this gap in information, it is logical to assume that there are incremental benefits to Waste Connections to sell the RNG into the market in order for them to be willing to incur the contribution in aid of construction (CIAC) to cover the capital costs related to the proposed pipeline and related RNG injection station.

¹⁰ Pollution Probe Submission, December 13, 2022, p. 4

¹¹ Pollution Probe Submission, December 13, 2022, p. 2

In cases where the proponent is willing to provide a CIAC to cover the project costs, it decreases the need to justify the project for other purposes (e.g. emission reductions).¹²

PROJECT ALTERNATIVES

23. On the issue of Project alternatives, Enbridge Gas considered the need to assess the viability of Integrated Resource Planning (“IRP”) alternatives to providing built capacity to deliver gas. Through the application of the Binary Screening Criteria, the Company determined that the Project falls under the definition of “customer-specific builds” in the IRP Framework approved by the OEB and therefore an IRP evaluation is not required.¹³ OEB staff accepted this determination.¹⁴

24. Additionally, Enbridge Gas described its consideration of a number of potential routes for the Project. The Environmental Report notes that the proposed route is the preferred route from an environmental and socio-economic perspective.¹⁵ Enbridge Gas has also stated that there is only one existing system in the Project area that is able to accommodate the proposed injection volumes of RNG. Further, Enbridge Gas explained that all nearby distribution pipelines other than the proposed Project pipeline are used to serve the Blenheim and surrounding markets with a demand of only 140,000 m³/day which could only be fully accessed by multiple pipeline connection locations, and this is still lower than the 184,104 m³/day required by Waste Connections. As such, there are no other feasible facility alternatives able to meet Waste Connections’ need.¹⁶

¹² Pollution Probe Submission, December 13, 2022, p. 3

¹³ Exhibit C, Tab 1, Schedule 1, p. 1

¹⁴ OEB staff Submission, December 16, 2022, p. 3

¹⁵ Exhibit F, Tab 1, Schedule 1, Attachment 1, p. 90; OEB staff Submission, December 16, 2022, p. 3

¹⁶ Exhibit C, Tab 1, Schedule 1, pp. 1-2; Exhibit I.FRPO.1; Exhibit I.FRPO.2, part a)

25. Enbridge Gas submits that the Project need is best addressed by the proposed Project, and that the Company has adequately considered all viable alternatives. OEB staff agrees with Enbridge Gas that the Project represents the best alternative to meet the Project need:

Based on Enbridge Gas's evidence, OEB staff submits that the Project is the best alternative to meet the stated need and that the proposed route is acceptable.¹⁷

26. In its final submissions, and without any sound basis in evidence, FRPO argues that the Ridgetown Line may be a more economical alternative than the Project, and requests that the Company produce analysis of the Ridgetown Line as an alternative to the Project in its Reply Submission.¹⁸ By deferring this request and attempting to introduce evidence regarding the Ridgetown Line as an alternative to the Project until the submissions stage of the proceeding (as opposed to doing so during the discovery phase of the proceeding), FRPO inappropriately ignores the OEB-established procedure and timeline for the proceeding.

27. Notwithstanding the above, Enbridge Gas notes that some sections of the Ridgetown Line were designed as 3,450 kPa (as shown in the map referenced by FRPO from the EB-2018-0188 proceeding), however, other sections of this pipeline are rated for 1,900 kPa¹⁹ and therefore this pipeline is operated at 1,900 kPa. Due to the lower operating pressure, this pipeline cannot be connected to the Wheatley Line or Windsor Line to access those markets.

28. Similar to the Blenheim market, the combination of the Ridgetown Line and Sarnia South Line does not have adequate market demand to accommodate the customer's requested injection volume. On that basis, this alternative was

¹⁷ OEB staff Submission, December 16, 2022, p. 3

¹⁸ FRPO Submission, December 16, 2022, p. 5

¹⁹ Exhibit I.FRPO.1, Figure 1

rejected as part of Enbridge Gas's feasibility analysis. The Ridgeway Line does not represent a feasible alternative for the Project and does not warrant any further analysis.

29. FRPO also takes issue with the justification provided by Enbridge Gas in the request for the confidential treatment of Exhibit I.FRPO.1. However, on December 15, 2022, the OEB issued its Decision on Confidentiality regarding Enbridge Gas's request for confidential treatment of certain interrogatory responses and approved the confidential treatment of Exhibit I.FRPO.1 stating:

The OEB finds that the information contained in the interrogatory responses to Staff-9 at Attachment 2 and FRPO-1 is commercially sensitive, and grants Enbridge Gas's request for confidential treatment.²⁰

30. Enbridge Gas also notes that FRPO filed a Form of Declaration and Undertaking and promptly received a confidential copy of the interrogatory response. Enbridge Gas does not see any reason to provide additional justification for the confidential treatment of this document in this Reply Submission, given the OEB's previous determination in this proceeding that the information contained in Exhibit I.FRPO.1 is commercially sensitive and that consistent with the OEB's *Practice Direction on Confidential Filings*, FRPO has been granted access to the confidential document and has had adequate time to review the confidential information to inform their submissions.

PROJECT COST & ECONOMICS

31. On the issue of Project costs and economics, Enbridge Gas explained that the total cost of the Project is estimated to be \$11.5 million. As discussed in the Project Need section above, Enbridge Gas and Waste Connections

²⁰ OEB Decision on Confidentiality, December 15, 2022, p. 2

executed a Rate M13 – Union South Transportation of Locally Produced Gas service contract that includes a provision for the payment by Waste Connections of a CIAC for the full amount of the Project construction cost effective July 28, 2022.²¹

32. OEB staff has no concerns with Project costs and economics:

OEB staff has no concerns with the recovery of the Project costs based on Enbridge Gas's evidence that all the actual costs for the Project would be recovered from the customer, through the CIAC.²²

33. Pollution Probe and FRPO each inappropriately raise issues related to rate setting matters and the capital expenditure forecast proposed in Enbridge Gas's 2024 Rate Rebasing application (EB-2022-0200), matters currently before the OEB in that proceeding, in their respective submissions.²³ Any rate matters (including changes to M13 rates and charges) as well as the capital expenditure forecast proposed as part of Enbridge Gas's 2024 Rate Rebasing application exceed the scope of the current proceeding and are more appropriately addressed as part of the Rebasing proceeding.

34. Enbridge Gas submits that the evidence in this proceeding demonstrates that Project costs are reasonable and that the Project is economically justified.

²¹ Exhibit E, Tab 1, Schedule 1, Attachment 1

²² OEB staff Submission, December 16, 2022, p. 4

²³ FRPO Submission, December 16, 2022, pp. 6-7 and Pollution Probe Submission, December 13, 2022, pp. 5-6

ENVIRONMENTAL IMPACTS

35. On the issue of environmental impacts, OEB staff states:

OEB staff submits that Enbridge Gas has completed the ER in accordance with the OEB's Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario (Environmental Guidelines). OEB staff has no concerns with the environmental aspects of the Project, based on Enbridge Gas's commitment to implement the mitigation measures set out in the ER and to complete the EPP prior to the start of construction. OEB staff submits that Enbridge Gas's compliance with the conditions of approval outlined in Schedule A will ensure that impacts of pipeline construction are mitigated and monitored.²⁴

36. No intervenors made comments regarding the potential environmental impacts related to the Project. Enbridge Gas submits that the ER was completed in accordance with the OEB's *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario* (the "Guidelines").

LANDOWNER IMPACTS

37. Regarding potential landowner impacts, intervenors and OEB staff raised no issues related to the Project and OEB staff stated:

OEB staff submits that the OEB should approve the proposed forms of permanent easement and temporary land use agreements as both were previously approved by the OEB.²⁵

INDIGENOUS CONSULTATION

38. On the issue of Indigenous consultation, Enbridge Gas explained that it has been delegated the procedural aspects of consultation with potentially impacted Indigenous groups by the Ministry of Energy ("MOE"). In accordance with the OEB's Guidelines, an Indigenous Consultation Report outlining consultation activities Enbridge Gas has conducted has been prepared and provided to the MOE and filed with the OEB.²⁶ In its

²⁴ OEB staff Submission, December 16, 2022, p. 5

²⁵ OEB staff Submission, December 16, 2022, p. 6

²⁶ Exhibit H, Tab 1, Schedule 1, Attachments 5 and 6; Exhibit I.STAFF.9.

submission, OEB staff notes that Enbridge Gas appears to have made efforts to engage with affected Indigenous groups and no concerns that could materially affect the Project have been raised to date.²⁷

39. Enbridge Gas has not yet received a letter from the MOE confirming sufficiency of Indigenous consultation activities on the Project (“Sufficiency Letter”). Enbridge Gas has been in contact with the MOE regarding its consultation activities for the Project and is not aware of any outstanding concerns raised by Indigenous groups or reasons why a Sufficiency Letter would not be issued by the MOE in advance of a Decision and Order of the OEB on the current Application.
40. OEB staff submitted that the OEB should wait to grant leave to construct the Project until the Sufficiency Letter is filed by Enbridge Gas and that in the case that the Sufficiency Letter is not received or filed prior to record close, the OEB could place the proceeding in abeyance until such time that the Sufficiency Letter is filed.²⁸ Enbridge Gas submits that placing the proceeding in abeyance is not necessary and instead suggests that Enbridge Gas would accept the OEB imposing the standard requirement to file the Sufficiency Letter as a condition of approval for the Project, consistent with the OEB’s determinations in past proceedings.²⁹

CONDITIONS OF APPROVAL

41. In their submission, OEB staff supports the Application subject to proposed conditions of approval, included in Schedule A of OEB staff’s submission.

²⁷ OEB staff Submission, December 16, 2022, p. 7

²⁸ OEB staff Submission, December 16, 2022, p. 7

²⁹ EB-2017-0261, OEB Decision and Order on the Scugog Island Community Expansion Project; EB-2020-0192, OEB Decision and Order on the London Lines Replacement Project.

42. Enbridge Gas hereby confirms its intention to satisfy the conditions as described in Schedule A of OEB staff's submission and will comply with the final conditions of approval established by the OEB.

CONCLUSION

43. Enbridge Gas has provided clear and compelling evidence to support that the Project is in the public interest. In considering the typical factors in support of a leave to construct application, the evidence submitted by Enbridge Gas has shown there is a clear need for the Project. The evidence also illustrates that the Project need and cost is supported by the M13 service contract executed between Enbridge Gas and Waste Connections which includes a provision for the payment by Waste Connections of a CIAC for the full amount of the Project construction cost. Enbridge Gas determined that the proposed route is the most feasible option and this is supported by OEB staff. Furthermore, there were no material concerns raised by OEB staff and the intervenors with respect to land matters, environmental impacts and Indigenous consultation.

44. The OEB should conclude that the proposed Project is in the public interest and issue an order granting leave to construct the Project, subject to the conditions of approval proposed by OEB staff.