



Enbridge Gas Inc.

Applications for leave to construct natural gas pipelines

DECISION ON INTERVENOR EVIDENCE AND CONFIDENTIALITY

April 17, 2023

Enbridge Gas Inc. (Enbridge Gas) filed applications with the Ontario Energy Board (OEB) under section 90 of the Ontario Energy Board Act, 1998, S.O. 1998, c. 15, (Schedule B) (OEB Act), for orders granting leave to construct for the following projects:

- Selwyn Pipeline Community Expansion Project, EB-2022-0156
- Mohawks of the Bay of Quinte and Shannonville Community Expansion Project, EB-2022-0248
- Hidden Valley Community Expansion Project, EB-2022-0249

Enbridge Gas has also applied to the OEB under section 97 of the OEB Act for approval of the form of land-use agreements it offers to landowners for the routing and construction of each project.

These three community expansion projects were selected to be eligible to receive funding assistance as part of Phase 2 of the Government of Ontario's Natural Gas Expansion Program (NGEP), which provides financial support to help utilities expand natural gas distribution into communities that are not currently connected to the natural gas system.

Environmental Defence Proposed Evidence

On March 9, 2023, Environmental Defence filed with the OEB a letter indicating that it proposed to file evidence that will compare the costs, for an average customer in each of the three communities, to convert their existing heating systems to electric heat pumps relative to the cost of converting to natural gas. Environmental Defence stated that the evidence would be prepared by Dr. Heather McDiarmid.

Environment Defence stated that the proposed evidence is relevant to the customer addition forecast, which underpins the revenue forecast for each of the community expansion projects and is determinative of the financial risks to existing customers.

Environmental Defence stated that the financial risks to existing customers if the customer addition and related revenue forecasts are missed are significant.

Submissions on Relevance of Proposed Evidence

In accordance with Procedural Order No. 1 for each proceeding, OEB staff, Pollution Probe, and Enbridge Gas filed submissions on the relevance of the proposed evidence in all three proceedings. Mohawks of the Bay of Quinte filed a submission on the relevance of the proposed evidence in the Mohawks of the Bay of Quinte and Shannonville Community Expansion Project proceeding.¹

Pollution Probe supported Environmental Defence's proposal to file evidence as it is directly relevant to the three noted proceedings. OEB staff submitted that the evidence proposed by Environmental Defence was relevant to the OEB's consideration of the project costs and economics. OEB staff noted that the customer attachment forecast is an important input to the revenue forecast forming part of the economic feasibility analysis which is a standard issue considered by the OEB in leave to construct proceedings.

Mohawks of the Bay of Quinte submitted that through consultations undertaken it has chosen to support the application proposed by Enbridge Gas over alternative energy sources and the evidence proposed by Environmental Defence should be rejected as it is not relevant to the proceeding.

Enbridge Gas submitted that Environmental Defence's evidence request should be denied as the proposed cost comparison exercise is inconsistent with the Government of Ontario's policy basis underpinning the applications (the *Access to Natural Gas Act*, 2018), as well as the OEB's Integrated Resource Planning (IRP) Framework² which does not require that gas expansion projects conduct an IRP alternative assessment. Enbridge Gas further stated that the proposed evidence will provide the OEB with no insight into the energy interests expressed by actual residents and business-owners within the three relevant communities.

Environmental Defence filed a letter responding to Enbridge Gas's submissions. Environmental Defence stated that the Government of Ontario's natural gas expansion regulation contemplates leave to construct requirements for projects under the NGEP and therefore, the OEB maintains its obligations to consider public interests factors including financial impacts on customers. Environmental Defence also stated that the proposed evidence relates to the accuracy of the customer attachment forecast and not

¹ EB-2022-0248

² EB-2020-0091

IRP. Environmental Defence further stated that Enbridge Gas's submission that the proposed evidence would provide no insight into energy interests of customers is incorrect as the relative cost-effectiveness of gas versus the most cost-effective alternative (electric heat pumps) is an important factor in the decisions of customers on whether to switch to gas.

Findings

The OEB denies Environmental Defence's request to file the evidence of Dr. McDiarmid for the reasons set out herein.

The three Enbridge Gas projects that are the subject of these leave to construct applications are eligible for funding through the NGEP. The NGEP was created through the *Access to Natural Gas Act, 2018*, which is incorporated into section 36.2 of the OEB Act. The purpose of the NGEP is to provide funding for projects to connect previously unserved communities to natural gas service that would otherwise be uneconomic. Pursuant to section 36.2 and O. Reg. 24/19, Enbridge Gas customers in certain communities are eligible to receive rate protection in respect of specified "qualifying investments" (i.e., projects that are eligible for funding through the NGEP). All three of the projects that are the subject of the current applications have been designated as qualifying investments under O. Reg. 24/19. The regulation sets out the maximum amount of rate reduction (i.e., NGEP funding) for each project; as a practical matter the rate reduction amount is applied to offset to the capital cost of the project. The rate reduction for qualifying investments is financed through a levy of \$1 per month on all Ontario natural gas consumers. Eligibility for NGEP funding does not remove any requirement that projects receive all necessary approvals from the OEB, including leave to construct. All three projects that are the subject of these applications require leave to construct approval to proceed and to receive the NGEP funding.

Following a request from the Minister of Energy pursuant to section 35 of the OEB Act to collect information about possible natural gas expansion projects, the OEB provided a Report to the Minister that set out information on 210 proposed gas expansion projects.³ The three community expansion projects that are the subject of these applications (amongst several others) were selected by the Ministry of Energy for eligibility to receive funding through Phase 2 of the NGEP.

The OEB in administrative and adjudicative decisions⁴ has accepted that the *Access to Natural Gas Act, 2018* and its proposed program implementation represents an

³ EB-2019-0255, Report to the Minister of Energy, Northern Development and Mines and to the Associate Minister of Energy: Potential Projects to Expand Access to Natural Gas Distribution, October 30, 2020.

⁴ Ibid., Footnote 3; EB-2020-0091, Integrated Resource Planning Framework (IRP); and EB-2022-0088, Decision and Order, August 18, 2022.

important consideration in the determination of the public interest in providing the availability of natural gas service in unserved communities. To that end, alternatives to energy provision by natural gas were not considered as part of the Guidelines developed to choose qualified investments and the IRP Decision exempted NGEP projects from the requirement of an in-depth assessment of alternatives to facilities expansion. This approach was also reflected in the recent Haldimand Shores leave to construct decision⁵ that was enabled by an approved qualifying investment set out in O. Reg 24/19.

Environmental Defence's proposed evidence is expected to address the potential for cold climate heat pumps to provide superior performance to natural gas service in terms of costs and risks. In accordance with the pre-existing OEB approach, this application does not involve the OEB making a choice between the approval, or recommending the use, of such heat pumps instead of an expansion of natural gas facilities in serving the relevant communities. It is also questionable whether there would be a sufficient record even with the proposed Environmental Defence evidence to enable such a choice. Such matters as potential customer take up of potential alternatives to natural gas, the impact on, and support of the community must be canvassed to make such a determination. Consequently, the OEB will not approve the filing of Environmental Defence's proposed evidence.

However, the three leave to construct applications do require an examination of the economics of the projects as part of the assessment of the public interest. In particular, this includes the projections of costs, customer take up, and subsequent rate revenue upon project completion. While Enbridge Gas is committed to absorbing any shortfall over a ten-year rate stability period, this time frame is likely a considerably shorter period than the useful life of the facilities constructed. The rate protection assistance obtained from contribution from all natural gas customers set out in O. Reg 24/19 is quantified and limited.

Cold climate heat pumps are commercially available and Enbridge Gas is the distributor of the same in a partnership with Natural Resources Canada as part of the Canada Greener Homes Program. In addition, the IRP Decision encouraged Enbridge Gas to discuss such Demand Side management (DSM) options with consumers who might be served by the NGEP projects. The OEB has a responsibility to scrutinize Enbridge Gas's projections of customer take up of such heat pumps in lieu of, or, quite possibly following, a connection to expanded natural gas access and its effect. As Enbridge Gas has recognized in its reply of March 28, 2023, an OEB rate rebasing application after the ten-year rate stability period will consider the appropriate treatment of any revenue

⁵ Ibid, Footnote 4

shortfalls or surpluses at that time. Enbridge Gas's evidence in these proceedings may be helpful to those future proceedings.

The OEB has considered Pollution Probe's and OEB staff's submission that the evidence proposed by Environmental Defence is relevant to the scope of OEB's review of these applications. Given the narrow focus of the issue of installation of cold climate heat pumps or other DSM initiatives, the OEB finds that the impact of cold climate heat pumps on, and relevance to, the economics of the proposed natural gas expansion projects may be explored without the necessity of the Environmental Defence evidence, but rather through interrogatories or by further discovery or follow-up as the OEB may require. If the scope of this Decision presents a need for further interrogatories than have been already submitted, the OEB would be prepared to allow for supplementary interrogatories.

Confidentiality Requests

In each of the three proceedings, Enbridge Gas requested confidential treatment for personal information in the Environmental Report (Exhibit F/Tab 1/Schedule 1/Attachment 1) and in the Landowner List (Exhibit G/Tab 1/Schedule 1/Attachment 3). Enbridge Gas also requested confidential treatment for personal information in the Correspondence Log (Exhibit F/Tab 1/Schedule 1/Attachment 2) in the Hidden Valley Community Expansion Project application.

Findings

The OEB has reviewed Enbridge Gas's request for the redaction of personal information contained in each of the three proceedings. The OEB finds that the redacted information in the Environmental Report (Exhibit F/Tab 1/Schedule 1/Attachment 1) and in the Landowner List (Exhibit G/Tab 1/Schedule 1/Attachment 3) of each proceeding and in the Correspondence Log (Exhibit F/Tab 1/Schedule 1/Attachment 2) in the Hidden Valley Community Expansion Project application is personal information as defined in the *Freedom of Information and Protection of Privacy Act* (FIPPA) and OEB's Practice Direction on Confidential Filings (Practice Direction). This information, which contains names and contact information of property owners, shall remain redacted and shall not be provided to the intervenors in the proceedings.

DATED at Toronto, **April 17, 2023**

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar