



Ontario Energy Board | Commission de l'énergie de l'Ontario

BY EMAIL

August 9, 2023

Ms. Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
registrar@oeb.ca

Dear Ms. Marconi:

**Re: Ontario Energy Board (OEB) Staff Submission
Enbridge Gas Inc. – Mohawks of the Bay of Quinte and Shannonville
Community Expansion Project
OEB File Number: EB-2022-0248**

In accordance with Procedural Order No. 5, please find attached OEB staff's submission in the above proceeding. The attached document has been forwarded to Enbridge Gas Inc. and to all other registered parties to this proceeding.

Yours truly,

Original Signed By

Zora Crnojacki
Senior Advisor, Natural Gas Applications

Encl.

cc: All parties in EB-2022-0248



ONTARIO ENERGY BOARD

OEB Staff Submission

Enbridge Gas Inc.

**Mohawks of the Bay of Quinte and
Shannonville**

Community Expansion Project

Application for Leave to Construct

EB-2022-0248

August 9, 2023

1.0 Application Summary

On December 20, 2022 Enbridge Gas Inc. (Enbridge Gas) filed an application 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 an order granting leave to construct approximately 17.3 kilometres of natural gas pipeline and associated facilities in the Tyendinaga Mohawk Territory Reserve No. 38 (Tyendinaga Mohawk Territory) and the community of Shannonville in the Township of Tyendinaga, Hastings County.

The proposed natural gas pipeline (Project) consists of approximately:

- 2.8 kilometres of Nominal Pipe Size (NPS) 4-inch polyethylene (PE) distribution pipeline
- 14.5 kilometres of NPS 2-inch PE distribution pipeline
- upgrade of the existing station to accommodate additional customers attachments to the distribution system

According to Enbridge Gas, the Project is needed to supply natural gas to approximately 179 customers consisting of 151 customers in the community of the Mohawks of the Bay of Quinte First Nation and approximately 28 customers in the community of Shannonville in the Township of Tyendinaga. The Project was selected to be eligible to receive funding assistance from Ontario Government's Phase 2 Natural Gas Expansion Program (NGEP).¹

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

In terms of other OEB approvals required for the Project, in addition to the leave to construct requested in the current proceeding, OEB staff notes that Enbridge Gas holds a 20-year Municipal Franchise Agreement with the Township of Tyendinaga, effective August 23, 2010² and a Certificate of Public Convenience and Necessity for the Township of Tyendinaga.³ In addition, Enbridge Gas has a permit issued under section 28(2) of the *Indian Act* related to the location of the facilities in the Tyendinaga Mohawk Territory.⁴

¹ Ontario Regulation 24/19: Expansion of Natural Gas Distribution Systems, under Ontario Energy Board Act, 1998, S.O. 1998, c. 15 Sched B, current June 8, 2021

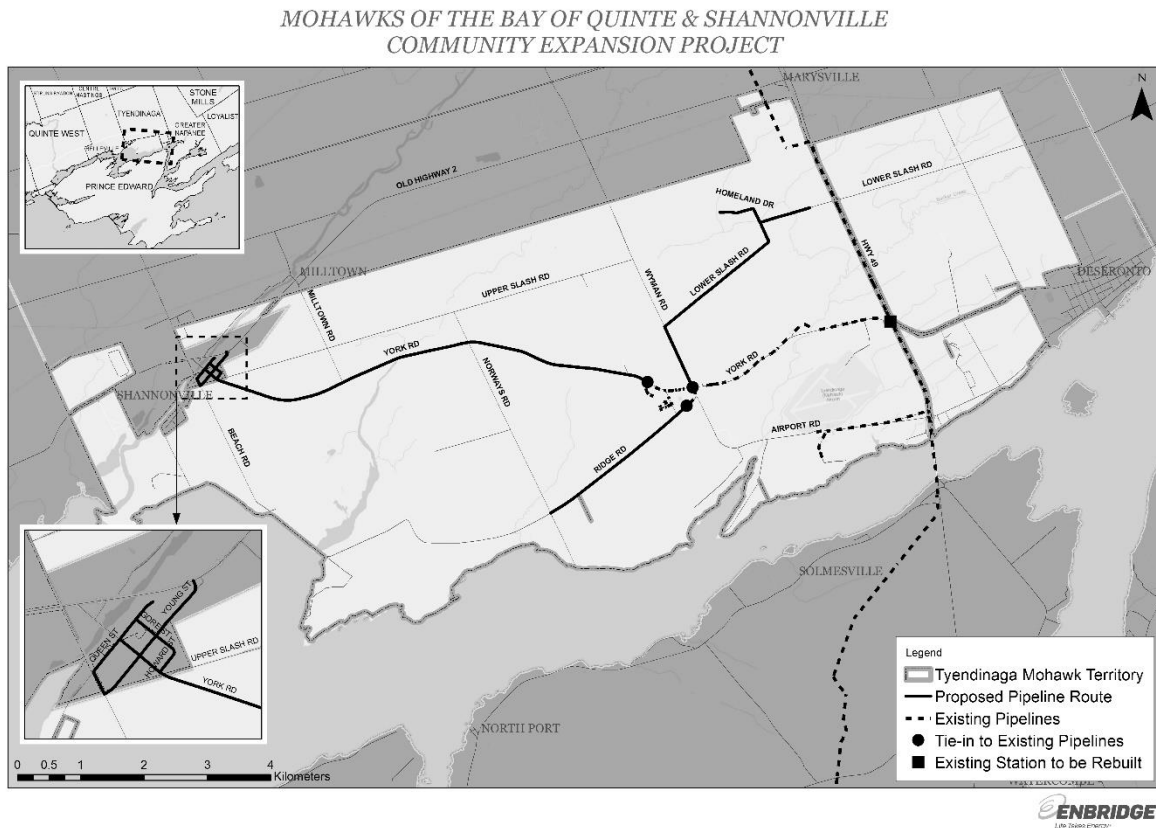
² EB-2010-0183, Schedule C

³ EB-2019-0255, Schedule 5E-6(a), 2020-11-30

⁴ EB-2019-0255, Schedule 5E-6(b)

Enbridge Gas proposed to start construction in July 2023, with an in-service date of December 2023.

A general location of the Project is shown on the map below.



2.0 The Proceeding

The OEB issued the Notice of Hearing (Notice) on February 9, 2023. Environmental Defence, Federation of Rental-housing Providers (FRPO), Mohawks of the Bay of Quinte First Nation and Pollution Probe applied for and were granted intervenor status.

On March 9, 2023, Environmental Defence filed a letter with the OEB proposing to file evidence in the proceeding and described the nature of the evidence and its expected cost.⁵ The proposed evidence was on the comparison of the cost-effectiveness of high-efficiency electric cold climate air source heat pumps versus conversion to natural gas service.

On March 16, 2023, in Procedural Order No.1, the OEB set out a process for other parties to propose the filing intervenor evidence, file submissions on the relevance of the proposed intervenor evidence and for written interrogatories. No other party proposed to file intervenor evidence.

Procedural Order No. 2, issued on March 28, 2023, granted the Mohawk of the Bay of Quinte's request for extension of filing submissions on the relevance of the proposed intervenor evidence from March 28, 2023 to April 4, 2023. OEB staff, Mohawks of the Bay of Quinte, Pollution Probe and Enbridge Gas filed submissions on the relevance of the evidence.

On April 11, 2023, OEB staff, Environmental Defence, FRPO, and Pollution Probe filed written interrogatories on Enbridge Gas's application and evidence. Enbridge Gas requested and was approved an extension to file interrogatory responses on May 2, 2023 (from April 21, 2023).

On April 17, 2023, the OEB issued a decision denying Environmental Defence's request to file evidence.

On April 25, 2023, Environmental Defence filed a motion to review the OEB's decision that denied Environmental Defence's request to file evidence. However, Environmental Defence asked that the OEB not process the motion until the conclusion of the discovery process, in the event that similar evidence would be obtained through discovery.

On April 28, 2023, Environmental Defence filed supplemental interrogatories in response to the OEB's decision. Enbridge Gas filed a letter stating that it should not be required to

⁵ Environmental Defence's proposed evidence relates to three applications for leave to construct currently before the OEB: Selwyn Pipeline Community Expansion Project, EB-2022-0156; Mohawks of the Bay of Quinte and Shannonville Community Expansion Project, EB-2022-0248; and Hidden Valley Community Expansion Project, EB-2022-0249.

respond to the supplemental interrogatories until the OEB determined the need for further discovery.

Enbridge Gas filed responses to the original interrogatories on May 2, 2023 and indicated that it would file an updated response to Environmental Defence's interrogatory I.ED.16 part (e) including attachments no later than May 31, 2023. The interrogatory I.ED.16 part (e) asked Enbridge Gas to provide assessments of relative cost-effectiveness of an average customer in the project area converting to an air-source cold climate heat pump versus natural gas.

On May 23, 2023, the OEB placed the proceeding in abeyance, by way of Procedural Order No. 3, pending Enbridge Gas's update to I.ED.16 part (e) and set out a process for submissions on the need for supplemental interrogatories.

On May 31, 2023, Enbridge Gas updated its response to I.ED.16 part (e).

On June 5, 2023, Pollution Probe filed supplemental interrogatories for the OEB's consideration. On June 7, 2023, Environmental Defence cited a number of issues it had identified with Enbridge Gas's update to I.ED.16 part (e) that it noted should be explored through supplemental interrogatories.

On June 13, 2023, Enbridge Gas submitted that there was no need for supplemental interrogatories and that it did not have additional information on the cost-effectiveness of high-efficiency electric cold climate air source heat pumps compared to natural gas furnaces for space heating beyond what it included in I.ED.16 part (e). On June 14, 2023, in response to Enbridge Gas, Environmental Defence restated its position on the need for further discovery.

On June 28, 2023, the OEB issued Procedural Order No. 4, which determined that supplemental interrogatories are not required. Instead, the OEB required that Enbridge Gas provide, in its argument-in-chief, responses to certain matters raised in Environmental Defence's correspondence. Procedural Order No. 4 also set out a schedule for final argument.

On June 30, 2023, Environmental Defence filed a letter that stated that the discovery process had concluded and asked that its motion be adjudicated.

On July 10, 2023, the OEB placed the proceeding in abeyance and suspended the dates for final argument. The OEB determined that the proceeding be in abeyance pending the OEB's direction with respect to the June 30, 2023 request by Environmental Defence that its motion be adjudicated.

On July 12, 2023, the OEB issued a letter that stated that the appropriate time to consider

any motion is once the hearing panel has issued its final decisions with respect to the three community expansion projects.⁶ The OEB further stated that new information from these decisions would likely be relevant to any motion, and Environmental Defence could decide to revoke, amend, or file a new motion, and the OEB can determine at that time how it would consider any motion.⁷

On July 14, 2023, by way of Procedural Order No. 5 the OEB took the proceeding out of abeyance and revised the schedule for final argument.

On July 25, 2023, Enbridge Gas filed its argument-in-chief.⁸ OEB staff and intervenor written submissions are due by August 9, 2023 and Enbridge Gas may file a written reply submission by August 23, 2023.

⁶ Selwyn Pipeline Community Expansion Project, EB-2022-0156; Mohawks of the Bay of Quinte and Shannonville Community Expansion Project, EB-2022-0248; and Hidden Valley Community Expansion Project, EB-2022-0249

⁷ EB-2023-0190, OEB Letter, July 12, 2023, page 2

⁸ Enbridge Gas's argument-in-chief relates to all three community expansions projects currently before the OEB.

3.0 OEB Staff Submission

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 provides through this submission its position with respect to the appropriate treatment of the Project during the Rate Stability Period (RSP) and at the time of the rebasing following the conclusion of the RSP. OEB staff also supports the approval of the forms of agreement for permanent easement and temporary land use proposed by Enbridge Gas.

Consistent with the [OEB's Standard Issues List](#) for natural gas leave to construct applications, OEB staff's submission is structured to address the following issues:

1. Project Need
2. Project Alternatives
3. Project Cost and Economics
4. Environmental Impacts
5. Landowner Matters
6. Indigenous Consultation
7. Conditions of Approval

OEB staff notes that in Procedural Order No. 4, the OEB set out the following question:

In light of section 36.2 of the OEB Act and O. Reg 24/19 (Expansion of Natural Gas Distribution Systems Regulation)⁹, what factors must the OEB consider in determining the public interest pursuant to section 96(1)?

OEB staff submits that the standard issues list provides the appropriate public interest factors to be considered pursuant to section 96(1) of the OEB Act for leave to construct applications (including for projects funded through the NGEP). OEB staff also notes that the standard issues list was applied by the OEB in its review of Enbridge Gas's leave to construct application for Haldimand Shores, which was also a NGEP project.¹⁰

3.1 Project Need

The Project was one of 210 proposals for community expansion projects, including four economic development projects, submitted to the OEB, and included in the *OEB's Report*

⁹ Ontario Regulation 24/19: Expansion of Natural Gas Distribution Systems, under Ontario Energy Board Act, 1998, S.O. 1998, c. 15 Sched B, current June 8, 2021

¹⁰ EB-2022-0088

*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.*¹¹

The Project is one of 28 projects across 43 communities selected to be eligible to receive funding, as part of the Ontario Government's Phase 2 NGEP as specified in the Expansion of Natural Gas Distribution System Regulation.¹²

The NGEP provides funding to Ontario natural gas distributors to support the expansion of natural gas to communities that are not currently connected to the natural gas system. NGEP funding acts in a manner similar to a contribution in aid of construction and is designed to bring projects that would otherwise be uneconomic to a profitability index of 1.0 (i.e., make them economic under the OEB's test under E.B.O. 188). The Expansion of Natural Gas Distribution Systems Regulation sets out the funding mechanism and includes the projects selected to receive the government funding as well as the amount of funding allocated to each project.¹³ Enbridge Gas noted that the Project supports the Ontario Government's efforts to help expand access to natural gas in Ontario that do not currently have access to the natural gas system.¹⁴

Enbridge Gas stated that the need for the Project is supported by its forecast of customers attachments until 2032. The table below shows forecasted attachments over ten years starting in 2023.

Table 1: Forecasted Customer Attachments for the Project- Application

Customer Additions	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	Total Forecasted
Residential	45	40	15	11	8	10	9	10	9	9	166
Commercial/Institutional		5	4	2	1	1					13
Industrial											
Total	45	45	19	13	9	11	9	10	9	9	179

Enbridge Gas forecasted a total of 179 attachments. This forecast includes 151 customers in the community of Mohawks of the Bay of Quinte (138 residential and 13

¹¹ EB-2019-0255, OEB's Report to the Minister of Energy, Northern Development and Mines and the Associate Minister of Energy: Potential Projects to Expand Access to Natural Gas Distribution, December 10, 2020

¹² Ontario Regulation 24/19 Expansion of Natural Gas Distribution Systems, Schedule 2

¹³ The Expansion of Natural Gas Distribution Systems Regulation sets the mechanism for sourcing the funding of the eligible expansion projects by requiring that rate-regulated natural gas distributors charge each of their customers \$1 per month.

¹⁴ Enbridge Gas argument-in-chief, EB-2022-0156, EB-2022-0248, EB-2022-0249, July 25, 2023, paragraphs 9 and 10, page 5

commercial and industrial) and 28 residential customers in Shannonville in the next ten years. Enbridge Gas indicated that the forecasted attachment assumed a 65% capture rate by the end of 2032.

Enbridge Gas's forecast of customers attachments is based on the results of multiple methods to acquire information on the interest for natural gas service in the community: a questionnaire, an Expression of Interest (EOI) door to door survey, and a community outreach program.

Enbridge Gas distributed the questionnaire to determine the interest for converting to natural gas at the Fall Fair on September 9 and September 10, 2022. The questionnaire was also distributed door-to-door to residents and commercial businesses during the week of September 12, 2022. In addition to the questionnaire, Enbridge Gas has conducted a door-to-door EOI survey between December 14 and 16, 2022. Enbridge Gas noted that EOI results are a precursor to completed attachment agreements. Enbridge Gas received, as of March 30, 2023, 103 EOI responses confirming interest in receiving natural gas services (12 from Shannonville and 91 on the Mohawks of the Bay of Quinte's reserve on the Tyendinaga Mohawk Territory, not including 24 Mohawks of the Bay of Quinte Band owned properties that are also expected to attach).¹⁵ Enbridge Gas noted that "...this EOI outcome represents over 60% of the 10-year attachment forecast, exceeding the cumulative year 3 attachment forecast."¹⁶

To determine the level of interest in natural gas service Enbridge Gas has been also conducting in-person public information sessions since October 2022.

On January 23, 2023, Enbridge Gas also started ongoing attachment outreach in the Project area and has committed to continue these efforts throughout Project execution.

Enbridge Gas noted that the need for the Project is strongly supported by the Mohawks of the Bay of Quinte Council in meetings with Enbridge Gas and in letters of support by the Mohawks of the Bay of Quinte Chief and the Band Council, which indicated the intent to attach and convert to natural gas all 24 Mohawks of the Bau of Quinte Band owned properties.¹⁷ The Township of Tyendinaga also expressed the support for the Project in a

¹⁵ Enbridge Gas response to OEB staff interrogatory Exhibit I.STAFF.3 (d) page 3

¹⁶ Enbridge Gas argument-in-chief, EB-2022-0156, EB-2022-0248, EB-2022-0249, July 25, 2023, page 8, paragraph 16

¹⁷ EB-2022-0248, Enbridge Gas Evidence, Exhibit H, Tab 1, Schedule 1, Attachment 6, page 98, Letter, September 15, 2022 by Chief T. Donald Maracle, and Exhibit B, Tab 1, Schedule 1, Attachment 5, page 1, Letter, October 22,2022 by Chief T. Donald Maracle

letter dated May 3, 2022,¹⁸ which states that the support was expressed in a Resolution of the Council on May 2, 2022.

The ten-year growth forecast for customer additions as filed in Enbridge Gas’s project proposal for NGEF funding is at Table 2 below.¹⁹

Table 2: Forecasted Customer Attachments for the Project- NGEF Proposal

Project Year	1	2	3	4	5	6	7	8	9	10	Total Forecasted
Residential	38	30	18	10	10	4	4	4	3	3	124
Commercial		2									2
Agricultural											
Industrial											1
Total	38	32	18	10	10	4	4	4	3	3	126

Environmental Defence and Pollution Probe have sought information with respect to the cost effectiveness of conversion to electric heat pumps relative to conversion to natural gas service. These parties expressed a concern that heat pumps could actually be a cheaper alternative to natural gas service, and that Enbridge Gas’s customer forecast could be overstated (which would adversely impact the economic feasibility of the Project). In response to an Environmental Defence interrogatory, Enbridge Gas filed a study prepared by Guidehouse Inc. (Guidehouse), which provides an assessment of the annual operating costs of high-efficiency electric cold climate air source heat pumps within four Ontario climates at three peak winter design loads. In the same response, Enbridge Gas also filed its own analysis of the customer lifetime cost-effectiveness of high-efficiency electric cold climate air source heat pump configurations compared to natural gas furnace configurations using low-end and high-end upfront cost assumptions.

The results are set out in the table below.²⁰

¹⁸ EB-2022-0248, Enbridge Gas Evidence, Exhibit B, Tab 1, Attachment 2

¹⁹ EB-2019-0255, Enbridge Gas Community Expansion Project Proposal, Schedule 5E-2, Table 3.2

²⁰ In the table, positive dollar figures mean that heat-pump conversion is more cost effective and negative dollar figures mean that natural gas conversion is more cost effective.

Table 3: Lifetime Cost-Effectiveness of Electric Cold Climate Heat Pumps vs. Natural Gas Furnace

Scenario	Customer Lifetime Cost-Effectiveness (using Low-End Upfront Cost Assumption)	Customer Lifetime Cost-Effectiveness (using High-End Upfront Cost Assumption)
Toronto, 2.5 ton	+\$6,043	-\$30,447
Toronto, 4 ton	+\$11,166	-\$25,324
Toronto, 5 ton	+\$14,582	-\$21,908
Ottawa, 2.5 ton	+\$6,890	-\$29,600
Ottawa, 4 ton	+\$12,515	-\$23,975
Ottawa, 5 ton	+\$16,261	-\$20,229

Enbridge Gas noted that conversion to a high-efficiency electric cold climate air source heat pump configuration could be more cost-effective for space heating for some homeowners when compared to a conversion to a natural gas furnace configuration, whereas for other homeowners the natural gas solution would be more cost-effective. The actual upfront cost incurred is a key factor in the overall cost effectiveness.

Enbridge Gas also provided a number of disclaimers with respect to its analysis noting that the analysis does not consider water heating components which, if customers chose all-electric configurations, would require additional considerations to be included in the analysis. Additionally, Enbridge Gas does not have information regarding high-efficiency electric cold climate air source heat pumps with respect to summer space cooling.²¹

Environmental Defence provided a general critique of the quality of the heat pump cost analysis completed by Enbridge Gas and its consultant Guidehouse.²² Environmental Defence challenged the assumptions used in the assessments and models (e.g., monthly customer charges, extra line charge, increases in federal carbon charges, annual cooling costs, etc.).

Enbridge Gas, in its argument-in-chief clarified and provided additional explanation of the assumptions and inputs that were applied in Guidehouse's and Enbridge Gas's assessments and models.²³

²¹ EB-2022-0248, Enbridge Gas updated interrogatory responses, May 31, 2023, Exhibit I.ED.16 part (e) including attachments

²² Letters by Environmental Defence, dated June 7, 2023 and June 14, 2023

²³ EB-2022-0156, EB-2022-0248, EB-2022-0249, Enbridge Gas argument-in-chief, July 25, 2023, pages 11-23

OEB Staff Submission

OEB staff notes that the Project is one of the community expansion projects selected by the Ontario Government to be eligible to receive NGEF funding in support of the government's efforts to make gas distribution service available to currently unserved communities in Ontario. In addition, OEB staff notes that the Project customer attachments and cost forecasts have changed from the original estimate that underpinned the NGEF funding. The Project cost is now approximately \$1.5 million (16%) higher and the overall customer attachment forecast is 53 attachments (42%) higher than the original estimate²⁴. OEB staff submits that while the Project has changed to some extent since the government awarded it NGEF funding, the Project continues to address the government's efforts to allow customers in currently unserved communities the opportunity to receive natural gas service.

As noted previously, NGEF-funded community expansion projects are subject to the same public interest test as other projects for which leave to construct approval is required. OEB staff submits that the appropriate public interest factors to be considered pursuant to section 96(1) of the OEB Act for leave to construct applications are those set out in the OEB's Standard Issues List, which includes the need for the project.

OEB staff submits that, based on the evidence on the record, Enbridge Gas has established the need for the Project. Enbridge Gas used multiple methods to establish the ten-year forecast of customer attachments. OEB staff notes that Enbridge Gas committed to continue engaging in outreach activities to ensure forecasted customer attachments are realized. OEB staff also notes that the Project is strongly supported by the Mohawks of the Bay of Quinte Council on behalf of the Mohawks of the Bay of Quinte community as well as by the Township of Tyendinaga.

OEB staff has considered the evidence of Enbridge Gas regarding the estimates of cost effectiveness of conversion to electric heat pumps relative to conversion to natural gas service. Enbridge Gas's evidence recognizes that in certain circumstances conversion to electric heat pumps is more cost effective than natural gas conversion (and in other circumstances, it is not).²⁵

While there has been some debate throughout the course of the proceeding as to whether heat pump conversion is more cost effective than conversion to natural gas conversion, it is OEB staff's position that Enbridge Gas's market survey results are the best information available on the record. These survey results suggest that there is sufficient interest in

²⁴ EB-2019-0255, Schedule 5E-3, 2020-11-30

²⁵ Enbridge Gas updated interrogatory responses, May 31, 2023, Exhibit I.ED.16 part (e) including attachments

natural gas conversion, in the relevant communities, to allow Enbridge Gas to achieve its customer connection forecast. OEB staff submits that the need for the Project is supported by these survey results. However, there is certainly a risk that over the ten-year customer attachment period, some of the customers that are forecast to attach do not actually do so.

If customers do not attach as forecast, both prospective and existing Enbridge Gas customers are exposed to a financial risk that the Project will not generate enough revenues to cover the costs and all customers may be required to pay higher rates to recover the revenue shortfall.²⁶

In the section later in the submission on project costs and economics, OEB staff provides its view that the RSP ensures that Enbridge Gas retains the risk of capital cost overruns and customer attachments for the first ten years that the Project is in service. In addition, the requirement for Enbridge Gas to seek approval, in the rebasing application following the conclusion of the RSP, of the inclusion of the updated costs and revenues associated with the Project in rates allows the OEB the opportunity to undertake an additional review at that time. To the extent that the revenues or costs for the Project do not match the forecasts, the OEB can consider adjusting the costs and/or revenues associated with the Project for ratemaking purposes in a manner that does not allow for full cost recovery by Enbridge Gas.

3.2 Project Alternatives

Enbridge Gas applied the Integrated Resource Planning (IRP) Binary Screening Criteria and determined that the Project meets the definition of a community expansion project as defined in the IRP Framework.²⁷ Therefore, no IRP evaluation is required.

Enbridge Gas noted that the Project has been approved by the Government of Ontario as part of Phase 2 of the NGEF, to provide access to natural gas services in the community of the Mohawks of the Bay of Quinte First Nation and the community of Shannonville in the Township of Tyendinaga. Enbridge Gas stated that a description of the Project (including preliminary facility design and estimated Project costs) was submitted to the OEB and the

²⁶ OEB staff notes that in Procedural Order No. 4, the OEB set out the following question, “what is the expected impact of take up of other forms of energy delivery to the customers that will be provided access to natural gas through the completion of the project?” OEB staff’s submission as set out above addresses this question.

²⁷ EB-2020-0091, Decision and Order, Enbridge Gas Inc. Integrated Resource Framework Proposal, July 22, 2021, Appendix A. and page 48. The IRP Framework states that, “If a facility project has been driven by government legislation or policy with related funding explicitly aimed at delivering natural gas into communities, then an IRP evaluation is not required.”

Government of Ontario as part of Phase 2 of the NGEP. As such, Enbridge Gas did not assess other facility alternatives.

OEB Staff Submission

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

3.3 Project Cost and Economics

The total estimated Project cost is approximately \$10.7 million. The total pipeline costs are approximately \$8.9 million. The total ancillary costs of approximately \$1.8 million comprise of station upgrades and services related costs. The contingency included in the estimated costs is set at 10%, which is, in Enbridge Gas's submission, consistent with the level of contingency set for other projects it proposed for the NGEP funding.

The table below²⁸ shows a comparison between the Project costs estimates in the application and the original proposal in the OEB's proceeding on Potential Projects for NGEP Funding.²⁹

Table 4: Estimated Project Costs (Application vs. NGEP Proposal)

Item No	Description	Table 1 Project Costs (\$CAD)			Project Proposal (EB-2019-0255) (\$CAD)		
		Pipeline	Ancillary	Total	Pipeline	Ancillary	Total
1.0	Material	123,571	30,100	153,671	148,386	5,631	154,017
2.0	Labour and Construction	6,646,356	1,578,430	8,224,786	5,813,995	930,251	6,744,246
3.0	Outside Services	1,161,990	17,300	1,179,290	646,195	9,530	655,726
4.0	Lands, Permits, Approvals and Consultations	21,403		21,403	58,233		58,233
5.0	Contingency	801,919	164,266	966,185	1,314,907	23,166	1,338,073
6.0	SUB TOTAL	8,755,239	1,790,097	10,545,335	7,981,715	968,579	8,950,294
7.0	Interest During Construction	88,329	4,943	93,272	80,415	4,098	84,513
8.0	Direct Overheads	65,862	11,025	144,895	113,400	40,471	153,871
9.0	Total Project Costs	8,909,430	1,806,065	10,715,494	8,175,530	1,013,147	9,188,678

The total estimated costs presented in this application are approximately \$1.5 million higher than the total costs of \$9.2 million in the original project proposal provided in the

²⁸ Enbridge Gas response to the OEB staff interrogatories, May 2, 2023, Exhibit I. STAFF.3 (a) and (b)

²⁹ EB-2019-0255

OEB's proceeding on Potential Projects for NGEF Funding. Enbridge Gas noted that the \$1.5 million cost increase is "...attributed primarily to the completion of the project design and schedule."³⁰ Enbridge Gas explained that the increase in the cost estimates is due to: (a) the identified need for additional environmental work and land acquisition due to larger station footprint; (b) increase in total potential customer attachments from 126 to 179; and (c) discovery of rocks along the pipeline route that will require additional construction costs.³¹

The NGEF funding provided for the Project is approximately \$8.1 million.³² The \$8.1 million of NGEF funding is treated similarly to a contribution in aid of construction. Therefore, the total capital cost of the Project, net of NGEF funding, is approximately \$2.6 million.³³ In addition to NGEF funding, Enbridge Gas intends to charge a System Expansion Surcharge (SES) of \$0.23 / m³ to the customers attaching to the Project for a term of 40 years to assist with the economic feasibility of the Project, which is consistent with the Enbridge Gas's application for a harmonized SES (Harmonized SES Proceeding).³⁴

According to Enbridge Gas, the Project is economically feasible, having a Profitability Index (PI) of 1.0. Enbridge Gas indicates that without the NGEF funding and SES, the PI for the Project is 0.22, with the inclusion of SES the PI is 0.35.³⁵ The PI of 1.0 is based on the most up-to-date estimated capital costs and forecasted revenues and is inclusive of the NGEF funding and revenues associated with SES charges. The original PI of the Project as filed in the OEB's proceeding on Potential Projects for NGEF Funding was also 1.0 (inclusive of NGEF funding and SES revenues).³⁶ Enbridge Gas noted that the primary factors that result in an unchanged PI for the Project is that while the capital costs have increased these increased costs are offset by higher forecasted customer attachments, higher forecasted customer rates and lower forecasted property taxes.

Enbridge Gas stated that, consistent with the OEB's findings in the Harmonized SES proceeding,³⁷ after the Project is placed into service, Enbridge Gas will apply a ten-year RSP during which Enbridge Gas will bear the risk of the Project customer attachment and capital expenditure forecast. Enbridge Gas noted that in its 2024 rebasing application³⁸, it

³⁰ EB-2022-0248, Enbridge Gas Evidence, Exhibit E, Tab 1, Schedule 1, paragraph 3, page 1

³¹ Enbridge Gas response to OEB staff interrogatories May 2, 2023, Exhibit I.STAFF.3 (a)

³² Ontario Regulation 24/19, Expansion of Natural Gas Distribution Systems, Schedule 2

³³ EB-2022-0248, Enbridge Gas Evidence, Exhibit E, Tab 1, Schedule 1 paragraph 9, page 3

³⁴ EB-2020-0094

³⁵ EB-2022-0248, Enbridge Gas Evidence, Exhibit E, Tab 1, Schedule 1, Attachment 1: Mohawks of the Bay of Quinte, In-Service Date: December 1, 2023 Economic Feasibility Parameters and Results

³⁶ EB-2019-0255, Enbridge Gas Community Expansion Project Proposal, Schedule 5, filed in response to OEB staff interrogatories EB-2022-0248, Exhibit I.STAFF.3, Attachment 1, page 15 of 44

³⁷ EB-2020-0094, Decision and Order, November 5, 2020, pages 8-9

³⁸ EB-2022-0200

has included the original forecasted customer additions and capital cost of the Project that underpinned the NGEF funding proposal. Enbridge Gas stated that at the time of the rebasing, following the conclusion of the RSP, it will file the actual costs and revenues of the Project with the OEB for consideration of inclusion in rates.

OEB Staff Submission

OEB staff submits that the updated total estimated cost of the Project is reasonable. OEB staff also notes that the contingency budget is aligned with the contingency budget for other similar community expansion projects. OEB staff submits that the Project, with the inclusion of NGEF funding and revenues associated with SES charges, is forecast to be economically feasible with a projected PI of 1.0.

OEB staff notes that Enbridge Gas's proposal to charge the SES to newly attached customers over a term of 40 years is in accordance with the OEB's findings in the Harmonized SES proceeding.³⁹ OEB staff also notes that specific approval of the SES charge is not required as was referenced by the OEB in its findings with respect to the Haldimand Shores leave to construct application.⁴⁰

OEB staff notes that in the Harmonized SES proceeding, the OEB stated the following:

The OEB finds that inclusion of the forecasted capital costs in rate base at the next rebasing before the end of the RSP is consistent with the Generic Decision's requirement for a Community Expansion Project and would achieve the desired goal that Enbridge Gas bear the risk of any capital cost overrun during the RSP. The OEB also finds that the treatment of actual capital costs at the time of rebasing following the rate stabilization period is appropriately the jurisdiction of the panel reviewing the rate rebasing case.⁴¹

The OEB further noted:

The OEB confirms the requirement to continue to report on the capital costs, customer attachments and PI of SES projects that require a LTC at the first rebasing following the end of the ten-year RSP... This information will be vital to the panel deciding on the inclusion of actual costs in rate base after the RSP.⁴²

OEB staff submits that Enbridge Gas should bear the risk of any revenue shortfall during the ten-year RSP associated with the customer attachment and capital cost forecasts as

³⁹ EB-2020-0094, Decision and Order, November 5, 2020

⁴⁰ EB-2022-0088, Decision and Order, August 18, 2022, pages 9-10

⁴¹ EB-2020-0094, Decision and Order, November 5, 2020, page 9

⁴² EB-2020-0094, Decision and Order, November 5, 2020, page 10

this approach is in accordance with the OEB's findings in the Harmonized SES proceeding.⁴³ As the original capital cost of the Project is lower than the current net capital cost, OEB staff agrees that Enbridge Gas should include the original forecasted customer additions and capital costs of the Project that underpinned the NGEF funding proposal in its rebasing application for the year that the Project is forecast to go into service.⁴⁴

The RSP ensures that Enbridge Gas bears the risk of revenue shortfalls during the first ten years that the Project is in-service. OEB staff notes that, after the RSP, the OEB will have the opportunity to review the actual project costs and revenues⁴⁵ and determine the appropriate amounts to use for ratemaking purposes. This is in accordance with the OEB's findings in Enbridge Gas's application for leave to construct approval of the Haldimand Shores project as follows:

The OEB agrees with OEB staff that the original forecast customer additions and capital costs of the Project should be included in the 2024 rebasing application, while the ratemaking aspects of the Project, based on actual costs and revenues, will be addressed in the rebasing proceeding following the 10-year Rate Stability Period.⁴⁶

OEB staff submits that the allocation of risk, between ratepayers and Enbridge Gas, beyond the term of the RSP for the Project has not been determined at this time. Enbridge Gas is relying on its forecast of capital costs and customer attachments to underpin the need for the Project. As noted previously, OEB staff agrees that this is the best information on the record to support the need for the Project. However, the risk remains that the customer attachments will not materialize as forecasted. OEB staff submits that all options will be available to the OEB in the rebasing following the conclusion of the RSP with respect to the appropriate rate treatment of potential capital cost overruns and/or lower than forecast customer attachments/volumes (and associated revenues). OEB staff submits that Enbridge Gas is not guaranteed total cost recovery if actual capital costs and revenues result in an actual PI below 1.0.⁴⁷

⁴³ EB-2020-0094, Decision and Order, November 5, 2020

⁴⁴ In Enbridge Gas's 2024 rebasing application, EB-2022-0200 at Undertaking JT6.3 Updated, Enbridge Gas has included the original costs (\$1.1 million net capital) and revenues associated with the Project as the Project was forecast to enter service in 2023. These amounts form part of the calculation of rates for 2024.

⁴⁵ Enbridge Gas agreed that it would file this information in the rebasing application following the conclusion of the RSP. Enbridge Gas argument-in-chief, EB-2022-0156, EB-2022-0248, EB-2022-0249, July 25, 2023, page 25.

⁴⁶ EB-2022-0088, Decision and Order, August 18, 2022. page 11

⁴⁷ OEB staff notes that in Procedural Order No. 4, the OEB set out the following question, "what is the appropriate treatment of the Project after the rate stability period has concluded? Please include treatment if a shortfall of expected Project revenue has occurred." OEB staff's submission as set out above addresses this question.

OEB staff notes that energy transition related matters including the risk of stranded or underutilized assets are being addressed in Enbridge Gas's 2024 rebasing proceeding.⁴⁸ The OEB's decision in that proceeding may be informative with respect to the review of the updated Project costs and revenues in the rebasing following the conclusion of the RSP.

3.4 Environmental Impacts

Enbridge Gas retained Dillon Consulting Ltd. (Dillon Consulting) to complete an Environmental Report: Mohawks of the Bay of Quinte and Shannonville Community Expansion Project (Environmental Report)⁴⁹. The Environmental Report and the consultation process were conducted in accordance with the OEB's *Environmental Guidelines for Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario* (OEB Environmental Guidelines). The Environmental Report assessed the existing bio-physical and socio-economic environment in the study area, the alternative routes, the preferred route, conducted public consultation, conducted impacts assessment and proposed mitigation measures to minimize the impacts. Enbridge Gas sent the Environmental Report to the Mohawks of the Bay of Quinte First Nation on July 20, 2022, and to other potentially impacted Indigenous communities on August 15, 2022. On August 12, 2022, Enbridge Gas sent the Environmental Report for review to the Ontario Pipeline Coordinating Committee (OPCC) members.

The evidence includes correspondence and tracking of communication with the OPCC up to April 6, 2023. Enbridge Gas confirmed in response to interrogatories dated May 2, 2023 that there are no outstanding issues or concerns resulting from the OPCC review.⁵⁰

As part of the OPCC review, the Technical Standards & Safety Authority (TSSA) requested that Enbridge Gas file with the TSSA an application for approval of the design and operational characteristics of the pipeline. Enbridge Gas filed, on August 15, 2022, the required application with the TSSA. Enbridge Gas stated that it had not received a review letter from the TSSA and that it expected to receive it prior to the construction start.⁵¹ OEB staff asks that Enbridge Gas provide, in its written reply submission, any updates on the TSSA's review of the application filed on August 15, 2022.

⁴⁸ EB-2022-0200

⁴⁹ Enbridge Gas evidence Exhibit E, Tab 1, Schedule 1, Attachment 1: Environmental Report

⁵⁰ Enbridge Gas response to OEB staff interrogatories I.STAFF.4 (a) Attachment 1 and (b) page 2

⁵¹ Enbridge Gas response to OEB staff interrogatories I.STAFF.5 (a)

Pursuant to the *Ontario Heritage Act*, Enbridge Gas is required to complete a Cultural Heritage Assessment Report (CHAR) for the Project. The CHAR should be completed prior to construction and submitted to the Ministry of Citizenship and Multiculturalism (MCM) for their review and comment. A CHAR was completed by Dillon Consulting and submitted to the MCM on December 6, 2022. Enbridge Gas received comments from the MCM regarding the CHAR on January 13, 2023. The updated CHAR was resubmitted to the MCM on April 4, 2023. On April 11, 2023, the MCM confirmed there were no further concerns.⁵²

Enbridge Gas has completed the Stage 1 Archaeological Assessment (AA) on July 20, 2022. The stage 2 AA draft report has also been completed and submitted to Indigenous communities for review. Enbridge Gas received comments from the Hiawatha First Nation and the Mohawks of the Bay of Quinte First Nation on the historical context of the Stage 2 AA. Enbridge Gas incorporated the comments from the Hiawatha First Nation and will incorporate the comments from Mohawks of the Bay of Quinte First Nation into the Stage 2 AA Report. Enbridge Gas confirmed it would submit a combined Stage 1 AA Final Report and Stage 2 AA Final Report to the MCM for review and approval prior to the start of construction⁵³

Enbridge Gas noted that the Project will be constructed in accordance with Enbridge Gas's Construction and Maintenance Manual and the recommendations in the Environmental Report.

Prior to construction, Enbridge Gas will develop an Environmental Protection Plan (EPP) to specify for implementation mitigation measures. The EPP will incorporate the mitigation measures identified in the Environmental Report and comments received in the consultation with the OPCC and regulatory agencies. Enbridge Gas will communicate the EPP to the construction contractor for implementation.⁵⁴

Enbridge Gas identified approvals, permits and easements that it requires related to crossings, location, and construction of the Project. Enbridge Gas stated that all the permits and agreements required for the Project would be acquired prior to the commencement of construction. Enbridge Gas provided the status and expected timing for receiving all permits and approvals.⁵⁵ Enbridge Gas stated that it did not anticipate any delays in processing the permits and approvals.

⁵² Enbridge Gas response to OEB staff interrogatory I.STAFF.6

⁵³ Enbridge Gas response to OEB staff interrogatory I.STAFF.7

⁵⁴ Enbridge Gas Evidence Exhibit F, Tab 1, Schedule 1, paragraphs 11 and 2, pages 3 and 5

⁵⁵ Enbridge Gas response to interrogatory I.STAFF.8 (a) Table 1: Status of Permits/Approvals

OEB Staff Submission

OEB staff submits that Enbridge Gas has completed the Environmental Report in accordance with the OEB's Environmental Guidelines. OEB staff has no concerns with the environmental aspects of the Project, given that Enbridge Gas is committed to implementing the mitigation measures set out in the Environmental Report and to completing the Environmental Protection Plan prior to the start of construction. OEB staff notes that the Standard Conditions of Approval for leave to construct require Enbridge Gas to obtain all necessary approvals, permits, licences, and certificates needed to construct, operate and maintain the proposed Project and ensure that the environmental impacts of the Project are addressed, mitigated and monitored.

3.5 Landowner Agreements

Enbridge Gas filed the forms of permanent and temporary agreements it will offer to the affected landowners. The forms of the agreements are the same forms the OEB approved for use in Enbridge Gas's Haldimand Shores Community Expansion Project.⁵⁶

Regarding the station rebuild, Enbridge Gas identified a potential need for a permanent easement or land acquisition within Tyendinaga Mohawk Territory Reserve No. 38. The station rebuild will likely require an extension of the existing station footprint and additional land. The exact permanent land requirements will be determined prior to finalizing the station design. According to Enbridge Gas, no concerns about granting the permanent land rights for the station rebuild have been expressed in discussions with the Mohawks of the Bay of Quinte First Nation.⁵⁷

Enbridge Gas stated that no permanent land rights are anticipated to be required for the portion of the project in Shannonville in the Township of Tyendinaga area.⁵⁸

Temporary working areas may be required along the proposed route where the road allowance is too narrow or confined to facilitate construction. These areas will be identified prior to construction and the agreements for temporary working rights will be negotiated where required and the approved form of temporary land use agreement will be offered to the affected landowners.

⁵⁶ EB-2022-0088, Exhibit F-1-1, Attachment 1 and Attachment 2

⁵⁷ Enbridge Gas response to interrogatory I.STAFF.9 (a)

⁵⁸ Enbridge Gas response to interrogatory I.STAFF.9 (b)

OEB Staff Submissions

OEB staff submits that the OEB should approve the proposed forms of permanent easement and temporary land use agreement as both were previously approved by the OEB.⁵⁹

3.6 Indigenous Consultation

In accordance with the OEB's Environmental Guidelines, on February 16, 2022, Enbridge Gas contacted the Ministry of Energy (MOE) in respect to the Crown's duty to consult related to the Project. The MOE, by way of a letter, delegated the procedural aspects of the Crown's duty to consult for the Project to Enbridge Gas on April 2, 2022 (Delegation Letter). In the Delegation Letter the MOE identified the following Indigenous communities that Enbridge Gas should consult with respect to the Project:

- Mohawks of the Bay of Quinte First Nation
- Alderville First Nation
- Beausoleil First Nation
- Chippewas of Georgina Island First Nation
- Chippewas of Rama First Nation
- Curve Lake First Nation
- Hiawatha First Nation
- Mississaugas of Scugog Island
- Kawartha Nishnawbe
- Huron-Wendat Nation

Direct notice of this proceeding was provided to all of these Indigenous communities, as well as the Métis Nation of Ontario. The Mohawks of the Bay of Quinte First Nation is an intervenor in the proceeding.

In the Delegation letter, the MOE noted that the consultation required is at the "low" end of the spectrum for the Project with the exception of the deeper level of consultation required with the Mohawks of the Bay of Quinte First Nation.⁶⁰

⁵⁹ EB-2022-0088

⁶⁰ Enbridge Gas Evidence (EB-2022-0246) Exhibit H, Tab 1, Schedule 1 and Attachment 2: Delegation Letter

As required by the MOE's Indigenous consultation protocol and the OEB Environmental Guidelines, Enbridge Gas prepared the Indigenous Consultation Report (ICR) describing and documenting the Indigenous consultation it has been conducting. The ICR is part of Enbridge Gas's evidence in support of the Project. In response to interrogatories⁶¹, Enbridge Gas updated ICR the logs on Indigenous consultation activities between the date of filing the ICR and April 13, 2023. Enbridge Gas also summarized comments by the engaged Indigenous communities as well as Enbridge Gas's responses to these comments. The updates included records of communication between the MOE and Enbridge Gas.

The MOE provided Enbridge Gas with a Letter of Opinion regarding the sufficiency of consultation regarding the Project on April 25, 2023.⁶² In the Letter of Opinion the MOE stated that "...based on this review of materials and our outreach to Indigenous communities, ENERGY is of the opinion that the procedural aspects of consultation undertaken by Enbridge to-date for the purposes of the Ontario Energy Board's Leave to Construct for the Project are satisfactory."

OEB Staff Submission

OEB staff submits 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 through its consultation to date. OEB staff observes that Enbridge Gas appears to be cooperating with the Indigenous communities during the consultation process and that it made certain commitments to the Indigenous communities related to the Project. OEB staff is not aware of any potential adverse impacts of the Project to any Aboriginal or treaty rights. The Project is also strongly supported by the Mohawks of the Bay of Quinte Council.

OEB staff also notes that the MOE expressed its opinion that the procedural aspects of the consultation undertaken by Enbridge Gas to date for the Project were satisfactory.

3.7 Conditions of Approval

Section 23 of the OEB Act permits the OEB, when making an order, to impose such conditions as it considers appropriate.

⁶¹ Enbridge Gas response to interrogatory I.STAFF.10 Attachment 1 Update to the ICR Summary Table and Attachment 2; Update to the ICR Consultation Log

⁶² Enbridge Gas response to interrogatory I.STAFF.10 Attachment 4: Letter of Opinion

Enbridge Gas did not identify any additional or revised conditions to the OEB's Standard Conditions of Approval for leave to construct applications.⁶³

OEB Staff Submission

OEB staff submits that the OEB should approve the Project subject to the OEB's Standard Conditions of Approval attached as Schedule A to this submission.

All of which is respectfully submitted.

⁶³ The link to the OEB Standard Conditions for section 90 applications was provided in the notice of application together with the Standard Issues List for section 90 applications.

Schedule A

Conditions of Approval

EB-2022-0248

August 9, 2023

**Leave to Construct Application under
Section 90 of the OEB Act**

**Enbridge Gas Inc.
EB-2022-0248**

Conditions of Approval

1. Enbridge Gas Inc. shall construct the facilities and restore the land in accordance with the OEB's Decision and Order in EB-2022-0248 and these Conditions of Approval.
2. (a) Authorization for leave to construct shall terminate 12 months after the decision is issued, unless construction has commenced prior to that date.
(b) Enbridge Gas Inc. shall give the OEB notice in writing:
 - i. of the commencement of construction, at least 10 days prior to the date construction commences
 - ii. of the planned in-service date, at least 10 days prior to the date the facilities go into service
 - iii. of the date on which construction was completed, no later than 10 days following the completion of construction
 - iv. of the in-service date, no later than 10 days after the facilities go into service
3. Enbridge Gas Inc. shall obtain all necessary approvals, permits, licences, certificates, agreements and rights required to construct, operate and maintain the Project.
4. Enbridge Gas Inc. shall implement all the recommendations of the Environmental Report filed in the proceeding, and all the recommendations and directives identified by the Ontario Pipeline Coordinating Committee review.
5. Enbridge Gas Inc. shall advise the OEB of any proposed change to OEB-approved construction or restoration procedures. Except in an emergency, Enbridge Gas Inc. shall not make any such change without prior notice to and written approval of the OEB. In the event of an emergency, the OEB shall be informed immediately after the fact.
6. Concurrent with the final monitoring report referred to in Condition 8(b), Enbridge Gas Inc. shall file a Post Construction Financial Report, which shall provide a variance analysis of project cost, schedule and scope compared to the estimates filed in this proceeding, including the extent to which the project contingency was utilized. Enbridge Gas Inc. shall also file a copy of the Post Construction Financial Report in the proceeding where the actual capital costs of the project are proposed to be included in rate base or any proceeding where Enbridge Gas Inc. proposes to

start collecting revenues associated with the Project, whichever is earlier.

7. Both during and after construction, Enbridge Gas Inc. shall monitor the impacts of construction, and shall file with the OEB one electronic (searchable PDF) version of each of the following reports:
 - a) A post construction report, within three months of the in-service date, which shall:
 - i. provide a certification, by a senior executive of the company, of Enbridge Gas Inc. adherence to Condition 1
 - ii. describe any impacts and outstanding concerns identified during construction
 - iii. describe the actions taken or planned to be taken to prevent or mitigate any identified impacts of construction
 - iv. include a log of all complaints received by Enbridge Gas Inc., including the date/time the complaint was received, a description of the complaint, any actions taken to address the complaint, the rationale for taking such actions
 - v. provide a certification, by a senior executive of the company, that the company has obtained all other approvals, permits, licenses, and certificates required to construct, operate, and maintain the proposed project
 - b) A final monitoring report, no later than fifteen months after the in-service date, or, where the deadline falls between December 1 and May 31, the following June 1, which shall:
 - i. provide a certification, by a senior executive of the company, of Enbridge Gas Inc. adherence to Condition 3
 - ii. describe the condition of any rehabilitated land
 - iii. describe the effectiveness of any actions taken to prevent or mitigate any identified impacts of construction
 - iv. include the results of analyses and monitoring programs and any recommendations arising therefrom
 - v. include a log of all complaints received by Enbridge Gas Inc., including the date/time the complaint was received; a description of the complaint; any actions taken to address the complaint; and the rationale for taking such actions
8. Enbridge Gas Inc. shall designate one of their employees as project manager who will be the point of contact for these conditions and shall provide the employee's name and contact information to the OEB and to all affected landowners, and shall clearly post the project manager's contact information in a prominent place at the construction site.