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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. (Enbridge Gas)
Selwyn Community Expansion Project
OEB File Number: EB-2022-0156**

Please find attached OEB staff's submission in the above referenced proceeding, pursuant to Procedural Order No. 4.

Yours truly,

Catherine Nguyen
Advisor, Natural Gas Applications

Encl.

cc: All parties in EB-2022-0156



ONTARIO ENERGY BOARD

OEB Staff Submission

Enbridge Gas Inc.

Selwyn Community Expansion

EB-2022-0156

August 9, 2023

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1 Application Summary

On January 18, 2023, Enbridge Gas filed an application seeking orders from the OEB:

- (a) Under section 90(1) of the Ontario Energy Board Act, 1998 (OEB Act), for leave to construct approximately 1.8 kilometres of 2-inch high-pressure pipeline and 6.6 kilometres of 4-inch high-pressure pipeline in the Township of Selwyn (the Project).
- (b) Under section 97 of the OEB Act, for approval of the forms of agreement it offers to landowners to use their land for routing or construction of the proposed pipeline.

The Project was selected to be eligible to receive funding from the Government of Ontario as part of Phase 2 of the Natural Gas Expansion Program (NGEP). The Project will supply natural gas to approximately 87 new customers in the Township of Selwyn who currently do not have access to natural gas service.

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 20-year Municipal Franchise Agreements with the Township of Selwyn¹ and Peterborough County.² Enbridge Gas also holds a Certificate of Public Convenience and Necessity for the Township of Selwyn.³

Enbridge Gas proposed to commence construction of the Project in July 2023 with an in-service date of January 2024.⁴

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

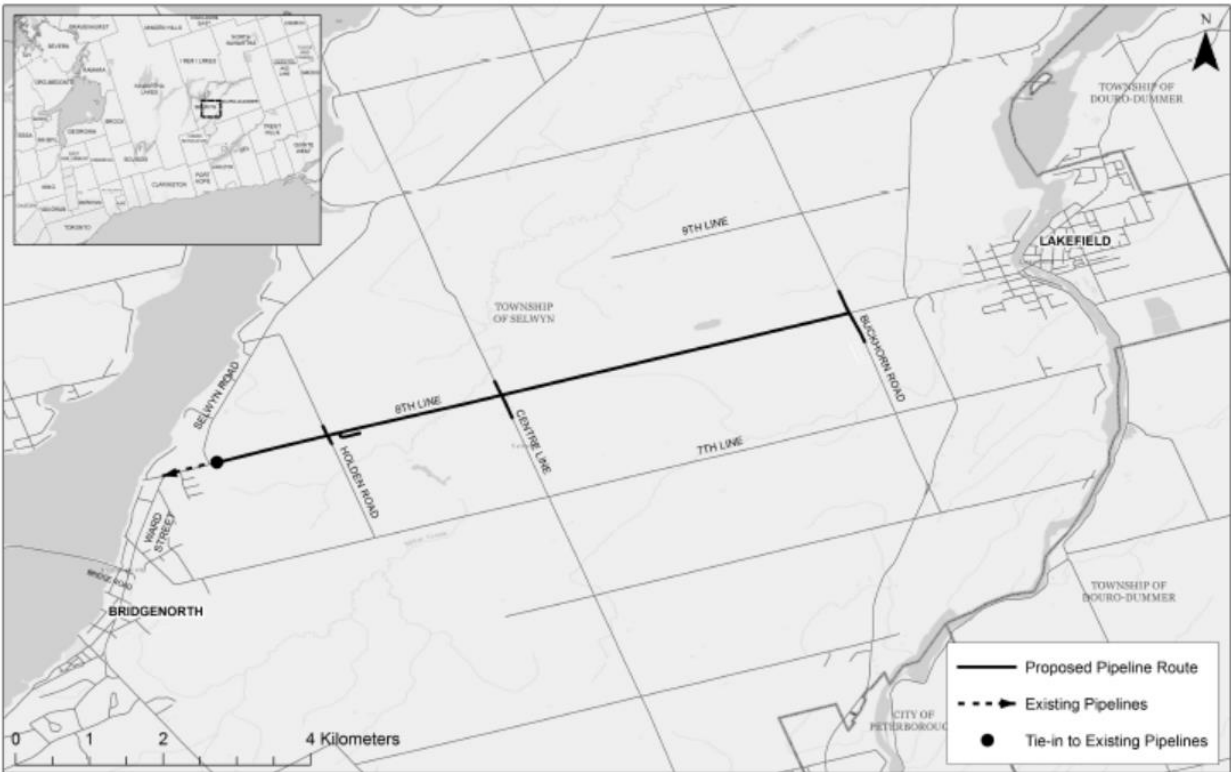
¹ EB-2011-0006 (Expires March 22, 2031)

² EB-2021-0279 (Expires February 16, 2042)

³ EB-2007-0674, dated October 25, 2007

⁴ Exhibit I.PP.24, Attachment 1

Selwyn Community Expansion Project



2 The Proceeding

The OEB issued the Notice of Hearing (Notice) on February 9, 2023. Environmental Defence, Federation of Rental-housing Providers of Ontario (FRPO) 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 filing intervenor evidence, file submissions on the relevance of the proposed intervenor evidence and for written interrogatories. No other party proposed to file evidence.

In accordance with Procedural Order No. 1, written interrogatories by OEB staff, Environmental Defence, FRPO, and Pollution Probe were filed by April 11, 2023. Enbridge Gas requested and was granted an extension to file interrogatory responses on May 2, 2023 (from April 27, 2023).

OEB staff, Pollution Probe and Enbridge Gas also filed submissions on the relevance of the evidence proposed by Environmental Defence, in accordance with Procedural Order No. 1.

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 Environmental Defence misinterpreted the OEB's decision and that it should not be required to respond to the supplemental interrogatories until the OEB determined the need for further

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.

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) no later than May 31, 2023. 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. 2, 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. 3, which determined that supplemental interrogatories were 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. 3 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. 4, 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 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. 3, 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

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

*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.*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 NGEF as specified in the Expansion of Natural Gas Distribution System Regulation.¹²

The NGEF 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. NGEF 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 consulted with the Township of Selwyn and the County of Peterborough and held customer outreach events within the community. The Township of Selwyn has indicated its support for the Project through a council resolution dated March 12, 2020 and a letter of support dated May 6, 2022.¹⁵

Enbridge Gas conducted independent quantitative research of potential customers in Selwyn, Ontario between August 23 and September 18, 2022. A total of 49 surveys were completed from a list of 116 homeowners. The survey was conducted door-to-door and via letters distributed to residents, with follow-up online and Computer Assisted Telephone Interview (CATI) surveys. Since the completion of the market survey, Enbridge Gas commenced monthly door-to-door, one-on-one conversations with potential customers in April 2022¹⁶ and has held in-person public information sessions within the Project area on May 4, 2022, October 4, 2022 and February 7, 2023.¹⁷

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

¹⁵ Exhibit B, Tab 1, Schedule 1, Attachments 2 and 3

¹⁶ Exhibit I.STAFF.2 (d)

¹⁷ Exhibit I.STAFF.3 (b)

Enbridge Gas also conducted in-person surveys of potential commercial/industrial customers within the Project area beginning in fall of 2021 to gauge interest in natural gas service and to obtain customer load information.

Enbridge Gas stated that the need for the Project is directly supported by the interest in natural gas service within the community as derived from the market research and in-person survey results. Enbridge Gas provided the expected ten-year forecast for customer additions at Table 1 below.¹⁸

Table 1: Forecasted Customer Attachments for the Project- Application

Selwyn Customer Additions	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total Forecasted
Residential	25	13	8	6	4	4	2	2	1	1	66
Commercial	6	4	3	1	1						15
Industrial	3	2	1								6
Total	34	19	12	7	5	4	2	2	1	1	87

The Project is expected to provide natural gas service to approximately 87 customers (residential, commercial and industrial) in the Township of Selwyn. Enbridge Gas indicated that the forecasted attachment assumed an 82% capture rate at the end of the ten years.

Enbridge Gas stated that it is in various stages of executing applications for natural gas attachment with approximately 40 customers (some of which may be installed in 2024 and others more likely to be installed in a later year). Enbridge Gas stated that as of May 2023, of the 40 customers, 20 residential and 7 commercial applications have been completed and Enbridge Gas is aware of 13 additional applications.¹⁹ Enbridge Gas stated that it will continue to engage with stakeholders, including holding additional events within the community and providing information and support to residents to ensure that forecasted customer attachments are realized.

The ten-year growth forecast for customer additions as filed in Enbridge Gas's project proposal for NGEF funding is at Table 2 below.²⁰

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

Project Year	1	2	3	4	5	6	7	8	9	10	Total
Residential	15	13	5	3	3	3	3	3	3	3	54

¹⁸ Exhibit B, Tab 1, Schedule 1, page 7, Table 2

¹⁹ Exhibit I.STAFF.2 (a)

²⁰ EB-2019-0255, Enbridge Gas Community Expansion Project Proposal, Schedule DDDD3, Table 3.2

Commercial		4	2	2							8
Agricultural		1									1
Industrial		5	2	2	1	1	1	1	1		14
Total	15	23	9	7	4	4	4	4	4	3	77

Enbridge Gas stated that it conducted a field survey of commercial and industrial customers within the project area to verify the original customer categorization assumptions from its NGEF proposal.²¹ As a result of the survey, Enbridge Gas stated that 8 of the 14 industrial customers forecasted in the NGEF proposal, were determined to have lower loads or were vacant properties, therefore reflecting a reduction in industrial customers from the NGEF proposal.²²

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 Table 3 below²³.

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

²¹ Exhibit I.STAFF.2 (c)

²² Ibid.

²³ 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.

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.²⁴

Environmental Defence provided a general critique of the quality of the heat pump cost analysis completed by Enbridge Gas and its consultant Guidehouse.²⁵ 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.²⁶

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 NGEP funding which supports 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 NGEP funding. The Project cost is now approximately \$1.5 million (25%) lower and the overall customer attachment forecast is 10 attachments (12%) higher than the original estimate. OEB staff submits that while the Project has changed to some extent since the government awarded it NGEP funding, the Project continues to

²⁴ EB-2022-0156, Enbridge Gas updated interrogatory responses, May 31, 2023, Exhibit I.ED.16 part (e) including attachments

²⁵ Letters by Environmental Defence dated June 7, 2023 and June 14, 2023

²⁶ EB-2022-0156, EB-2022-0248, EB-2022-0249, Enbridge Gas argument-in-chief, July 25, 2023, pages 11-23

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 supported by the Township of Selwyn.

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).²⁷

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, 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 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 may 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 in order to recover the revenue shortfall.²⁸

²⁷ Enbridge Gas updated interrogatory responses, May 31, 2023, Exhibit I.ED.16 part (e) including attachments

²⁸ OEB staff notes that in Procedural Order No. 3, 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

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.²⁹ 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 NGEP, to provide access to natural gas services in the Township of Selwyn. Enbridge Gas stated that a description of the Project (including preliminary facility design and estimated Project costs) was submitted to the OEB and the 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 \$4.5 million (\$3.9 million total pipeline costs and \$0.6 million total ancillary costs). The estimated cost of the Project includes a 10% contingency applied to all direct capital costs. Enbridge Gas stated that the contingency amount is consistent with the level of contingency set for other projects it proposed for the NGEP funding.

this question.

²⁹ EB-2020-0091, Decision and Order, July 22, 2021, Appendix A, page 11. The IRP Framework states that, "[i]f 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."

Table 4 below³⁰ shows a comparison between the Project costs estimates in the application and the original proposal in the OEB's proceeding on Potential Projects for NGEF Funding.³¹

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

Item No.	Description	Project Costs (\$CAD)			NGEF Proposal Costs (\$CAD)		
		Pipeline	Ancillary	Total	Pipeline	Ancillary	Total
1.0	Material	125,794	26,992	152,786	350,403	244,029	594,432
2.0	Labour and Construction	2,623,802	481,451	3,105,253	3,731,207	944,735	4,675,942
3.0	Outside Services	560,325	0	560,325	663,749	0	663,749
4.0	Land, Permits, Approvals and Consultations	146,913	0	146,913	9,428	0	9,428
5.0	Direct Overheads	37,812	3,912	41,724	15,562	27,438	43,000
6.0	Contingency	338,604	45,126	383,730	Included in items above		
7.0	Sub-Total	3,833,250	557,481	4,390,731	4,770,349	1,216,202	5,986,551
8.0	Interest During Construction	111,694	0	111,694	54,600	0	54,600
9.0	Total Project Costs	3,944,944	557,481	4,502,425	4,824,949	1,216,202	6,041,151

The total estimated costs presented in this application are approximately \$1.5 million lower than the total costs of \$6.0 million in the original project proposal provided in the OEB's proceeding on Potential Projects for NGEF Funding. Enbridge Gas stated that the variance is attributed primarily to the refinement of the Project scope and associated estimate by conducting site specific investigations including site visits, field surveys, environmental studies, and consultation efforts with permitting agencies.³² Enbridge Gas stated that the sources of significant variance include: (a) the elimination of a station rebuild; (b) the reduction in pipeline size from NPS 6-inch to NPS 4-inch; and (c) avoiding winter construction costs and construction activities within Species at Risk Habitat during the construction timing window.³³

The NGEF funding provided for the Project is approximately \$1.7 million.³⁴ The \$1.7 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

³⁰ Exhibit I.STAFF.4 (a)

³¹ EB-2019-0255

³² Ibid.

³³ Ibid.

³⁴ Ontario Regulation 24/19, Expansion of Natural Gas Distribution Systems, Schedule 2

\$2.8 million. 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 Enbridge Gas's application for a harmonized SES (Harmonized SES Proceeding).³⁵

According to Enbridge Gas, the Project is economically feasible, having a Profitability Index (PI) of 1.0. Enbridge Gas indicated that without the NGEF funding and SES, the PI for the Project is 0.30, with the inclusion of SES the PI is 0.68.³⁶ 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).³⁷ Enbridge Gas stated that the primary factors affecting the current estimated PI calculation include a reduction in forecasted large volume industrial customers offset by a lower capital cost estimate, an overall increase in customer attachment, higher forecasted distribution rates and lower property taxes.

Enbridge Gas stated that, consistent with the OEB's findings in the Harmonized SES proceeding,³⁸ 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 rebasing application³⁹, it has included the original forecasted customer additions and capital cost of the Project that underpinned the NGEF funding proposal. In response to interrogatories, Enbridge Gas confirmed that matters relating to the appropriate net capital amount to be included in rate base is more properly addressed as part of Enbridge Gas's ongoing 2024 Rebasing proceeding.⁴⁰ 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

³⁵ EB-2020-0094

³⁶ Exhibit E, Tab 1, Schedule 1, Attachment 1

³⁷ EB-2019-0255, Enbridge Gas Community Expansion Project Proposal, Schedule DDDD3, Table 7.1

³⁸ EB-2020-0094, Decision and Order, November 5, 2020, pp. 8-9

³⁹ EB-2022-0200

⁴⁰ Exhibit I.STAFF.4 (c)

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.⁴¹ 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.⁴²

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.⁴³

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.⁴⁴

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 this approach is in accordance with the OEB's findings in the Harmonized SES proceeding.⁴⁵ As the original capital cost of the Project is higher than the current net capital cost, OEB staff is of the view that it may not be appropriate to include the original capital cost 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, and instead, use the updated capital cost.⁴⁶

OEB staff reserves the right to argue which capital cost forecast (i.e., original or current) should be included in the 2024 rebasing proceeding. OEB staff believes that the

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

⁴² EB-2022-0088, Decision and Order, August 18, 2022, pages 9-10

⁴³ EB-2020-0094, Decision and Order, November 5, 2020, page 9

⁴⁴ EB-2020-0094, Decision and Order, November 5, 2020, page 10

⁴⁵ EB-2020-0094, Decision and Order, November 5, 2020

⁴⁶ In Enbridge Gas's 2024 rebasing application, EB-2022-0200 at Undertaking JT6.3 Updated, Enbridge Gas has included the original costs (\$4.4 million net capital) and revenues associated with the Project as the Project was forecast to enter service in 2024. These amounts form part of the calculation of rates for 2024. The updated net capital amount is \$2.8 million.

rebasings proceeding is the appropriate place to make such an argument as was agreed to by Enbridge Gas in its interrogatory responses.⁴⁷

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 revenues⁴⁸ 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.⁴⁹

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 1.0.⁵⁰

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.⁵¹ 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.

⁴⁷ Exhibit I.STAFF.4 c)

⁴⁸ 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.

⁴⁹ EB-2022-0088, Decision and Order, August 18, 2022, page 11

⁵⁰ OEB staff notes that in Procedural Order No. 3, 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.

⁵¹ EB-2022-0200

3.4 Environmental Impacts

Enbridge Gas retained Stantec Consulting Ltd. to undertake a route evaluation and environmental and socio-economic impact study, which included a cumulative effects assessment, to select the preferred route for the Project. The results of the study are documented in the Environmental Report (ER) filed with the application. The ER also includes consultation input and mitigation measures to minimize impacts from the Project.

The ER identifies two watercourses that will be crossed by the preferred route using the horizontal directional drill method. Enbridge Gas stated that it will obtain the necessary permits from the Otonabee Region Conservation Authority prior to construction start. Enbridge Gas will also implement measures to protect fish and fish habitat and meet Fisheries and Oceans Canada requirements.

On April 4, 2022, Enbridge Gas circulated the ER to members of the Ontario Pipeline Coordinating Committee (OPCC), Indigenous Communities, Municipalities and Conservation Authorities. Enbridge Gas filed the comments received on the ER as of August 17, 2022. In response to interrogatories, Enbridge Gas confirmed that it had not received additional comments on the ER from OPCC members, Municipalities or Conservation Authorities.⁵²

The Technical Standards and Safety Authority (TSSA) completed its review on the technical aspects of the Project and did not find any instance of non-compliance with regulations or adopted standards.⁵³

Enbridge Gas stated it would prepare an Environmental Protection Plan (EPP) prior to mobilization and construction of the Project. The EPP will incorporate the recommended mitigation measures identified in the ER and received in the consultation from agencies for the environmental issues associated with the Project.

Enbridge Gas stated that “[u]sing the mitigation measures and monitoring and contingency plans found within the ER, EPP and additional mitigation measures provided by regulatory agencies through the permitting and approval process, construction of this Project will have negligible impacts on the environment.”

A Cultural Heritage Assessment Report was submitted and accepted by the Ministry of Citizenship and Multiculturalism (MCM).

A Stage 1 Archaeological Assessment (AA) was completed and accepted by the MCM on October 20, 2022. A Stage 2 AA was completed based on the recommendations

⁵² Exhibit I.STAFF.6 (b)

⁵³ Exhibit D, Tab 1, Schedule 1, Attachment 1

from the Stage 1 AA. Enbridge Gas stated that a Stage 2 AA has been completed and was expected to be submitted to the MCM in May 2023 pending consultation, and entered into the Public Registry prior to construction start.⁵⁴

The application identified potential environmental/land permits and approvals from federal, provincial and municipal agencies that Enbridge Gas requires to construct the Project. In response to interrogatories, Enbridge Gas provided an update on the status and expected timing of the permits/approvals it requires for the Project.⁵⁵

OEB Staff Submission

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 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 Matters

The Project will be largely located in the public road allowance. Enbridge Gas stated that temporary working areas may be required along the preferred route where the road allowance is too narrow or confined to facilitate construction. Enbridge Gas also stated that permanent easements are not required for the Project.⁵⁶

Enbridge Gas filed forms of temporary land use⁵⁷ and permanent easement⁵⁸ agreements. The same form of agreements were approved by the OEB in a previous proceeding, Enbridge Gas's Haldimand Shores Community Expansion Project.⁵⁹

Enbridge Gas stated that land negotiations have been completed with no outstanding easements required at the time of the filing of its interrogatory responses. However, Enbridge Gas stated there may be instances during construction where it is identified

⁵⁴ Exhibit I.STAFF.5

⁵⁵ Exhibit I.STAFF.9 (b)

⁵⁶ Exhibit I.STAFF.8 (b)

⁵⁷ Exhibit G, Tab 1, Schedule 1, Attachment 1

⁵⁸ Exhibit G, Tab 1, Schedule 1, Attachment 2

⁵⁹ EB-2022-0088, Decision and Order, dated August 18, 2022

that additional temporary work areas are required.⁶⁰

OEB Staff Submission

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. While it is not expected that permanent easements will be required for the Project, OEB staff is of the view that approval of the form of permanent easement agreement provides Enbridge Gas flexibility in the circumstance that a permanent easement later becomes required during the construction phase of the Project.

3.6 Indigenous Consultation

In accordance with the OEB's Environmental Guidelines, Enbridge Gas contacted the Ministry of Energy in respect of the Crown's duty to consult related to the Project. On January 18, 2021, the Ministry of Energy issued a letter, delegating the procedural aspects of the Crown's duty to consult for the Project to Enbridge Gas (Delegation Letter). In the Delegation Letter, the Ministry of Energy identified the following Indigenous communities that Enbridge Gas should consult in relation to the Project:

- Alderville First Nation
- Curve Lake First Nation
- Hiawatha First Nation
- Huron Wendat Nation
- Kawartha Nishnawbe
- Mississaugas of Scugog Island

Direct notice of the application was provided to all of these Indigenous communities, and none of them sought to intervene or otherwise participate directly in the hearing.

As part of its application, Enbridge Gas filed an Indigenous Consultation Report dated January 16, 2023. In response to interrogatories, Enbridge Gas provided an update on its Indigenous consultation activities as of April 26, 2023.⁶¹

OEB staff notes that Curve Lake First Nation provided several comments on the ER, a Curve Lake Technical Field Memorandum, and the Ecological Land Classification referencing the potential impacts on harvesting rights and the need to protect culturally sensitive features and water resources. Enbridge Gas stated that it considered and provided detailed responses to Curve Lake's comments and that to date, Curve Lake

⁶⁰ Exhibit I.STAFF.8 (c)

⁶¹ Exhibit I.STAFF.10, Attachment 2

has not identified concerns with Enbridge Gas's responses.⁶² Enbridge Gas stated it will continue to engage with Curve Lake in relation to the Project throughout its lifecycle.⁶³

OEB staff also notes that Kawartha Nishnawbe First Nation expressed concerns about the impact of the Project on Kawartha Nishnawbe harvesting rights and advised Enbridge Gas that in its view, consultation had not occurred. Enbridge Gas met with a Kawartha Nishnawbe representative in person to discuss Kawartha Nishnawbe's concerns around the Project's impact to lands, water, fish and harvesting.⁶⁴ Enbridge Gas stated that it followed up with Kawartha Nishnawbe providing a link to the Project website and to confirm another meeting date. Enbridge Gas stated that it would continue to offer opportunities to engage with Kawartha Nishnawbe on the Project, responding to questions and concerns expressed, including explaining the various mitigation measures committed to by Enbridge Gas to minimize impacts on water, wildlife, fish and fish habitat, vegetation and archaeological resources.⁶⁵

As of this date, Enbridge Gas has not received a letter of opinion from the Ministry of Energy regarding Indigenous consultation undertaken by Enbridge Gas for the Project. In response to interrogatories, Enbridge Gas stated the Ministry of Energy indicated it's in the final stages of engagement with Indigenous communities and hopes to be in a position to file its letter of opinion soon.⁶⁶

OEB Staff Submission

OEB staff submits that Enbridge Gas appears to have made efforts to engage with affected Indigenous groups and that OEB staff has no information relating to any adverse impacts to Aboriginal or treaty rights that could arise from the Project. 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.

If the OEB determines that it is appropriate to grant Leave to Construct for the Project, OEB staff submits that the OEB should wait to receive the Letter of Opinion from the Ministry of Energy before providing its final approval to grant Leave to Construct for the Project. If the letter of opinion is not filed prior to record close, the OEB can place the proceeding in abeyance until such time that the letter is filed.

OEB staff notes that, to the extent that the letter of opinion may identify outstanding issues, the OEB could elect to make provision for additional procedural steps to

⁶² Exhibit I.STAFF.10

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ Exhibit I.STAFF.10 (d)

address these issues.

3.7 Conditions of Approval

Enbridge Gas stated that it has reviewed the OEB's standard conditions of approval and has not identified any additional or revised conditions to propose for the Project.⁶⁷

OEB Staff Submission

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

~All of which is respectfully submitted~

⁶⁷ Exhibit I, Tab 1, Schedule 1

Schedule A

Conditions of Approval

EB-2022-0156

August 9, 2023

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

**Enbridge Gas Inc.
EB-2022-0156**

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-2022-0156 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.'s 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.'s adherence to Condition 4
- 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.