



Ontario  
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**BY EMAIL**

August 9, 2023

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

Dear Ms. Marconi:

**Re: Ontario Energy Board (OEB) Staff Submission  
Enbridge Gas Inc. (Enbridge Gas)  
Hidden Valley Community Expansion Project  
OEB File Number: EB-2022-0249**

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

Yours truly,

*Original Signed By*

Petar Prazic  
Senior Advisor, Natural Gas

Petar Prazic  
Digitally signed  
by Petar Prazic  
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Encl.

cc: All parties in EB-2022-0249



# **ONTARIO ENERGY BOARD**

## **OEB Staff Submission**

**Enbridge Gas Inc.**

**Hidden Valley Community Expansion**

**EB-2022-0249**

**August 9, 2023**

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On December 20, 2022, Enbridge Gas filed an application seeking orders from the OEB under section 90(1) of the Ontario Energy Board Act, 1998 (OEB Act), for leave to construct approximately 4 kilometres of 2-inch high-pressure pipeline and ancillary facilities in the Town of Huntsville and District of Muskoka (Project). Enbridge Gas has also applied under section 97 of the OEB Act for approval of the form of land-use agreements and easement agreements.

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 Town of Huntsville and the District of Muskoka.<sup>1</sup> Enbridge Gas also holds a Certificate of Public Convenience and Necessity for the Town of Huntsville.<sup>2</sup>

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



<sup>2</sup> EB-2022-0233

## 2 The Proceeding

The OEB issued the Notice of Hearing (Notice) on February 3, 2023. Environmental Defence 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.<sup>3</sup> 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 intervenor evidence.

In accordance with Procedural Order No. 1, written interrogatories by OEB staff, Environmental Defence, and Pollution Probe were filed by April 6, 2023. Enbridge Gas requested and was granted an extension to file interrogatory responses by May 2, 2023 (from April 24, 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 determines the need for further discovery.

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<sup>3</sup> 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.

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 8, 2023, Enbridge Gas filed an update to its application. This update reflected: (a) revised customer attachment forecast from 110 to 130; (b) an updated project map; (c) reduced capital cost estimate from \$3.5 million to \$3.3 million; and (d) updated economic feasibility results related to the updated customer attachment forecast and capital costs.

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 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. 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 three community expansion projects.<sup>4</sup> 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.<sup>5</sup>

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.<sup>6</sup> 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.

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<sup>4</sup> 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

<sup>5</sup> EB-2023-0190, OEB Letter, July 12, 2023, page 2

<sup>6</sup> 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)<sup>7</sup>, 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.<sup>8</sup>

#### 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*

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<sup>7</sup> 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

<sup>8</sup> 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.*<sup>9</sup>

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.<sup>10</sup>

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.<sup>11</sup> 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.<sup>12</sup>

Enbridge Gas consulted with the Town of Huntsville and District of Muskoka. Support for the Project has come from a variety of sources including the Town of Huntsville and the residents in the Project area. The Town of Huntsville expressed its support for the Project in a letter dated July 31, 2020.<sup>13</sup>

Enbridge Gas conducted independent quantitative research of potential customers in Huntsville, Ontario between August 23 and September 18, 2022. A total of 61 surveys were completed. The market survey was conducted by telephone, online and in-person. Since the completion of the market survey, Enbridge Gas commenced monthly door-to-door, one-on-one conversations with potential customers in October 2022.<sup>14</sup>

Enbridge Gas conducted surveys of potential residential customers to gauge interest in natural gas distribution service and conversion within the Project area. Enbridge Gas retained Forum Research, a third-party research supplier, to conduct surveys by telephone, online and in-person of potential residential customers in the Project area

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<sup>9</sup> 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

<sup>10</sup> Ontario Regulation 24/19 Expansion of Natural Gas Distribution Systems, Schedule 2

<sup>11</sup> 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.

<sup>12</sup> Enbridge Gas argument-in-chief, EB-2022-0156, EB-2022-0248, EB-2022-0249, July 25, 2023, paragraphs 9 and 10, page 5

<sup>13</sup> Application and Evidence Exhibit B, Tab 1, Schedule 1, Attachment 2

<sup>14</sup> Exhibit I.STAFF.2 (c)

between August 23 and September 18, 2022.<sup>15</sup>

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 growth forecast for customer additions at Table 1 below.<sup>16</sup>

**Table 1: Forecasted Customer Attachments for the Project- Application**

Hidden Valley Customer Additions	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	Total Forecasted
Residential Single Family Conversion	13	18	18	9	9	4	4	4	4	4	87
Residential Multi-unit building	7	9	9	4	4	2	2	2	2	2	43
Commercial											
Industrial											
<b>Total</b>	<b>20</b>	<b>27</b>	<b>27</b>	<b>13</b>	<b>13</b>	<b>6</b>	<b>6</b>	<b>6</b>	<b>6</b>	<b>6</b>	<b>130</b>

The Project is expected to provide natural gas service to approximately 130 residential customers in the Town of Huntsville and District of Muskoka. Enbridge Gas indicated that the forecasted attachment assumed a 69% capture rate at the end of the ten years.

The ten-year growth forecast for customer additions as filed in Enbridge Gas's project proposal for NGEP funding is at Table 2 below.<sup>17</sup>

**Table 2: Forecasted Customer Attachments for the Project- NGEP Proposal**

Project Year	1	2	3	4	5	6	7	8	9	10	Total
Residential	28	24	9	8	5	7	5	7	5	5	103
Commercial	0	0	0	0	0	0	0	0	0	0	0
Agricultural		1									0
Industrial		5	2	2	1	1	1	1	1		0
<b>Total</b>	<b>28</b>	<b>24</b>	<b>9</b>	<b>8</b>	<b>5</b>	<b>7</b>	<b>5</b>	<b>7</b>	<b>5</b>	<b>5</b>	<b>103</b>

Enbridge Gas stated that following funding approval, development of the Project progressed, including field visits to confirm addresses, refine the total potential customer count and Project scope, and verify desktop category assumptions, where

<sup>15</sup> Application and Evidence Exhibit B, Tab 1, Schedule 1, p. 2 of 6.

<sup>16</sup> Exhibit B, Tab 1, Schedule 1, p. 7, Table 2, updated by Enbridge Gas from the originally filed 110 customers to 130 customers on May 8, 2023.

<sup>17</sup> EB-2019-0255, Enbridge Gas Community Expansion Project Proposal, Schedule 7J-2, Table 3.2

applicable. Enbridge Gas also updated its Market Research in September 2022, which increased the attachment rate from 65% to 69%. In addition, through investigation of the underlying attachment forecast, Enbridge Gas identified an error whereby it counted a multi-condo building units as a single customer. As a result of these refinements, Enbridge Gas updated the attachment forecast from 103 to 130 customers.

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 below.<sup>18</sup>

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

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

<sup>18</sup> 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.

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.<sup>19</sup>

Environmental Defence provided a general critique of the quality of the heat pump cost analysis completed by Enbridge Gas and its consultant, Guidehouse.<sup>20</sup> 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.<sup>21</sup>

### 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 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 NGEP funding. The Project cost is now approximately \$0.5 million (18%) higher and the overall customer attachment forecast is 27 attachments (26%) 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 address the government's efforts to allow customers in currently unserved communities the opportunity to receive natural gas service.

As noted previously, NGEP-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

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<sup>19</sup> EB-2022-0249, Enbridge Gas updated interrogatory responses, May 31, 2023, Exhibit I.ED.16 part e) including attachments

<sup>20</sup> Letters by Environmental Defence dated June 7, 2023 and June 14, 2023

<sup>21</sup> EB-2022-0156, EB-2022-0248, EB-2022-0249, Enbridge Gas argument-in-chief, July 25, 2023, pp. 11-23

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 Town of Huntsville.

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).<sup>22</sup>

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 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 in order to recover the revenue shortfall.<sup>23</sup>

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

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<sup>22</sup> Enbridge Gas updated interrogatory responses, May 31, 2023, Exhibit I.ED.16 part (e) including attachments

<sup>23</sup> 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 this question.

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.<sup>24</sup> Therefore, no IRP evaluation is required.

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 Town of Huntsville and District of Muskoka.

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 NGEF. 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 \$3.3 million (\$2.0 million total pipeline costs and \$1.4 million total ancillary costs).<sup>25</sup> 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 NGEF funding.

Table 4<sup>26</sup> below 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.<sup>27</sup>

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

<sup>24</sup> EB-2020-0091, Decision and Order, July 22, 2021, p. 47. 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."

<sup>25</sup> Updated by Enbridge Gas on May 8, 2023, from the originally-filed project cost estimate of \$3.5 million to the revised \$3.3 million.

<sup>26</sup> Exhibit I.STAFF.4 (a-c)

<sup>27</sup> EB-2019-0255

Item No	Description	Table 1 Project Cost (\$CAD)			Project Proposal (EB-2019-0255) (\$CAD)		
		Pipeline Costs	Ancillary Costs	Total	Pipeline Costs	Ancillary Costs	Total
1	Material	17,345	46,049	63,394	27,060	40,284	67,344
2	Labor and construction	1,092,429	1,141,339	2,233,768	1,491,540	639,861	2,131,401
3	Outside services	517,653	24,670	542,323	462,913	Included in No. 2	462,913
4	land, permits, approvals & consultation	8,340	0	8,340	4,986	0	4,986
5	Contingency	176,129	112,520	288,648	Included in all categories		
6	Sub-total	1,811,896	1,324,578	3,136,474	1,986,499	680,145	2,666,644
7	IDC	17,374	1,881	19,255	20,340	1963	22,303
8	Direct overheads	133,318	50,341	183,659	90,000	32,770	122,770
9	Total project costs	1,962,588	1,376,800	3,339,388	2,096,839	714,878	2,811,717

The total estimated costs presented in this application are approximately \$0.5 million higher than the total costs of \$2.8 million in the original project proposal provided in the OEB's proceeding on Potential Projects for NGEP Funding. Enbridge Gas stated that as designs for the Project have become more detailed, Enbridge Gas has refined its cost estimates. The sources of significant variance between the original capital cost estimate and the updated capital cost estimate include:

- a) the originally scoped station no longer being required and a new system design being supported by tying into the existing pipeline at a Condominium property; and
- b) approximately 0.4 km of services was incorrectly scoped as pipeline infrastructure in the original filing and has been recategorized as servicing infrastructure.<sup>28</sup>

The NGEP funding provided for the Project is approximately \$1.9 million.<sup>29</sup> The \$1.9 million of NGEP funding is treated similarly to a contribution in aid of construction. Therefore, the total capital cost of the Project, net of NGEP funding, is approximately \$1.4 million. In addition to NGEP funding, Enbridge Gas intends to charge a System Expansion Surcharge (SES) of \$0.23 / m<sup>3</sup> 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).<sup>30</sup>

In its original filed evidence, Enbridge Gas indicated that the project has a Profitability Index (PI) of 0.95. On May 8, 2023, Enbridge Gas filed updated evidence with a revised PI of 1.0 (based on updated customer attachments and reduced capital costs). Enbridge Gas indicated that without the NGEP funding and SES, the PI for the Project is 0.30, with the inclusion of SES the PI is 0.50.<sup>31</sup> The PI of 1.0 is based on the most up-to-date estimated capital costs and forecasted revenues and is inclusive of the NGEP funding and revenues associated with SES charges. The original PI of the Project as filed in the OEB's proceeding on Potential Projects for NGEP Funding was also 1.0 (inclusive of

<sup>28</sup> Exhibit I.STAFF.4 (a-c)

<sup>29</sup> Ontario Regulation 24/19, Expansion of Natural Gas Distribution Systems, Schedule 2

<sup>30</sup> EB-2020-0094

<sup>31</sup> Exhibit E, Tab 1, Schedule 1, Attachment 1, p. 4 of 5, Updated May 8, 2023.

NGEP funding and SES revenues).<sup>32</sup> 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.

Enbridge Gas stated that, consistent with the OEB's findings in the Harmonized SES proceeding,<sup>33</sup> 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 application,<sup>34</sup> it has included the original forecasted customer additions and capital cost of the Project that underpinned the NGEP 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 NGEP 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.<sup>35</sup> 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.<sup>36</sup>

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.<sup>37</sup>

The OEB further noted:

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<sup>32</sup> EB-2019-0255, Enbridge Gas Community Expansion Project Proposal, Schedule DDDD3, Table 7.1

<sup>33</sup> EB-2020-0094, Decision and Order, November 5, 2020, pages 8-9

<sup>34</sup> EB-2022-0200

<sup>35</sup> EB-2020-0094, Decision and Order, November 5, 2020

<sup>36</sup> EB-2022-0088, Decision and Order, August 18, 2022, pages 9-10

<sup>37</sup> EB-2020-0094, Decision and Order, November 5, 2020, page 9



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.<sup>38</sup>

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.<sup>39</sup> 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 NGEP proposal in the rebasing application for the year the Project is forecast to go into service.<sup>40</sup>

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 revenues<sup>41</sup> 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.<sup>42</sup>

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

<sup>38</sup> EB-2020-0094, Decision and Order, November 5, 2020, page 10

<sup>39</sup> EB-2020-0094, Decision and Order, November 5, 2020

<sup>40</sup> In Enbridge Gas's 2024 rebasing application, EB-2022-0200 at Undertaking JT6.3 Updated, Enbridge Gas has included the original costs (\$0.9 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.

<sup>41</sup> 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

<sup>42</sup> EB-2022-0088, Decision and Order, August 18, 2022, page 11

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.<sup>43</sup>

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.<sup>44</sup> 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 Stantec Consulting Ltd. (Stantec) to undertake a route evaluation and environmental and socio-economic impact study, which included a cumulative effects assessment and Stage 1 Archaeological Assessment (AA), 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.

There are no watercourses or wetland crossings associated with the Project. Enbridge Gas stated that according to the studies and surveys and proposed mitigation measures in the ER, no significant environmental or cumulative effects are expected from the Project development.<sup>45</sup>

The consultation process during the ER development included the Ontario Pipeline Coordinating Committee (OPCC) members, municipal officials, and Indigenous groups. On August 10, 2021, Stantec distributed for review and comments the ER for the Project asking for the comments by September 20, 2021. The records of consultation are part of the ER. Enbridge Gas filed updated consultation record on October 18, 2021.

Enbridge Gas has filed an application with the Technical Standards & Safety Authority (TSSA). To date, Enbridge Gas has not received any concerns from the TSSA regarding its review. However, Enbridge Gas noted that it has not yet received a letter from the TSSA advising that its review is complete. OEB staff asks that Enbridge Gas update the OEB on the status of the TSSA application in its reply submission.

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<sup>43</sup> 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.

<sup>44</sup> EB-2022-0200

<sup>45</sup> Exhibit F, Tab 1, Schedule 1, page 4 of 5

On September 16, 2022, Enbridge Gas circulated the ER to members of the Ontario Pipeline Coordinating Committee (OPCC), Indigenous Communities, Municipalities and Conservation Authorities, and filed the comments received on the ER. In response to interrogatories, Enbridge Gas confirmed that it had not received additional comments on the ER from OPCC members, Municipalities or Conservation Authorities.<sup>46</sup>

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.”<sup>47</sup>

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

A Stage 1 AA was completed by Stantec on July 28, 2022 and submitted to the MCM for review on November 9, 2022. The field work for the Stage 2 AA was scheduled for late April 2023, subject to receipt of utility clearances and field conditions. Enbridge Gas expected to submit the Stage 2 AA Report to the MCM in spring 2023 upon completion of the Stage 2 AA field work,<sup>48</sup> prior to the start of construction.

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.<sup>49</sup>

### 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.

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<sup>46</sup> Exhibit I.STAFF.6 (b)

<sup>47</sup> Exhibit F, Tab 1, Schedule 1, page 4 of 5

<sup>48</sup> Exhibit I.STAFF.8 (a)

<sup>49</sup> Exhibit I.STAFF.10 (b)

### 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 proposed route where the road allowance is too narrow or confined to facilitate construction. Enbridge Gas also stated that permanent easements are not expected to be required for the Project.

Enbridge Gas filed forms of temporary land use<sup>50</sup> and permanent easement<sup>51</sup> agreements. The same form of agreements were approved by the OEB in a previous proceeding, Enbridge Gas's Haldimand Shores Community Expansion Project.<sup>52</sup>

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 that additional temporary work areas are required.<sup>53</sup> In response to OEB Staff interrogatories, Enbridge Gas stated that the only concern raised to date is regarding construction over the winter season, as the Temporary Land Use (TLU) is seasonally used for ski school training parking, but Enbridge Gas does not expect construction to extend into the winter months.<sup>54</sup>

#### 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 April 7, 2022, 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:

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<sup>50</sup> Exhibit G, Tab 1, Schedule 1, Attachment 1

<sup>51</sup> Exhibit G, Tab 1, Schedule 1, Attachment 2

<sup>52</sup> EB-2022-0088, Decision and Order, dated August 18, 2022

<sup>53</sup> Exhibit I.STAFF.8(c)

<sup>54</sup> Exhibit I.STAFF.9(a)

- Alderville First Nation
- Beausoleil First Nation
- Chippewas of Georgina Island First Nation
- Chippewas of Rama First Nation
- Curve Lake First Nation
- Hiawatha First Nation
- Huron-Wendat Nation
- Mississauga's of Scugog Island First Nation

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.

Curve Lake First Nation (CLFN) provided Enbridge Gas with comments on the ER for the Project that included information, questions and recommendations regarding CLFN's Aboriginal and treaty rights (including harvesting and water rights).<sup>55</sup> Enbridge Gas provided a response to these comments on February 22, 2023, and indicated in its response to interrogatories that will continue to engage with CLFN and each of the other communities identified by the MOE as being potentially affected as appropriate throughout the lifecycle of the Project.<sup>56</sup>

As part of its application, Enbridge Gas filed an Indigenous Consultation Report dated December 20, 2022. In response to interrogatories, Enbridge Gas provided an update on its Indigenous consultation activities as of April 26, 2023.<sup>57</sup>

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 was in the final stages of engagement with Indigenous communities and hoped to be in a position to file its letter of opinion soon.<sup>58</sup>

### 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.

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<sup>55</sup> Exhibit H, Tab 1, Schedule 1, Attachment 6

<sup>56</sup> Exhibit I.STAFF.11 (d), Attachment 1

<sup>57</sup> Exhibit I.STAFF.11 (a), Attachment 1

<sup>58</sup> Exhibit I.STAFF.11 (c)

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 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.<sup>59</sup>

#### 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~

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<sup>59</sup> Exhibit I, Tab 1, Schedule 1

**Schedule A**

**Conditions of Approval**

**EB-2022-0249**

**August 9, 2023**

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

**Enbridge Gas Inc.  
EB-2022-0249**

**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-2022-0249 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.