



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

**BY EMAIL**

November 30, 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.  
Watford Pipeline Project  
OEB File Number: EB-2023-0175**

---

Please find attached OEB staff's submission in the above referenced proceeding, pursuant to Procedural Order No. 1.

Yours truly,

Natalya Plummer  
Analyst

Encl.

cc: All parties in EB-2023-0175



# **ONTARIO ENERGY BOARD**

## **OEB Staff Submission**

**Enbridge Gas Inc.**

**Watford Pipeline Project**

**EB-2023-0175**

**November 30, 2023**

## Table of Contents

Application Summary and Process .....	1
Request for Leave to Construct.....	3
Project Alternatives .....	4
Project Cost and Economics .....	4
Environmental Impacts .....	5
Landowner Matters.....	7
Indigenous Consultation.....	7
Conditions of Approval .....	9
Request for a Certificate of Public Convenience and Necessity.....	10

## Application Summary and Process

On August 1, 2023, Enbridge Gas Inc. (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 an order granting leave to construct approximately 15.3 kilometres of Nominal Pipe Size (NPS) 6-inch steel pipeline, in the Municipality of Brooke-Alvinston and the Township of Warwick (Project)
- b) Under section 97 of the OEB Act for an order approving the forms of easement agreement and temporary land use agreement found at Exhibit G, Tab 1, Schedule 1
- c) Under section 8 of the of the *Municipal Franchises Act, 1990* for an order cancelling the existing Certificate of Public Convenience and Necessity (Certificate) held by Enbridge Gas for the former Village of Watford and the former Township of Warwick and replacing it with a new Certificate to construct works to supply natural gas in the Township of Warwick.

The Project is designed to connect Waste Management of Canada Corporation's (WM) planned Twin Creeks Environmental Centre Renewable Natural Gas (RNG) facility to Enbridge Gas's network to facilitate the injection of RNG supply volumes. Enbridge Gas and Waste Management of Canada Corporation have executed a Service Contract for the Project. Enbridge Gas plans to commence construction in April 2024 and proposed an in-service date of December 2024.

The OEB issued a Notice of Hearing on September 7, 2023. Pollution Probe and the Three Fires Group Inc. (Three Fires Group) applied for and were granted intervenor status.

On October 4, 2023, the OEB issued Procedural Order No. 1 which set deadlines for filing and responding to interrogatories, and for the filing of written submissions by OEB staff and intervenors, and the filing of a reply submission by Enbridge Gas.

All parties filed written interrogatories and Enbridge Gas filed a response to interrogatories in accordance with the timelines established in Procedural Order No. 1.

OEB staff submits that Enbridge Gas's request for leave to construct approval should be granted subject to the conditions of approval contained in Schedule A of this submission. OEB staff submits that the OEB should also approve the forms of agreement for permanent easement and temporary land use proposed by Enbridge Gas. In addition, OEB staff submits that Enbridge Gas's request for a Certificate for the Township of Warwick should be approved. The details of OEB staff's submission are set

out in the sections that follow.

## Request for Leave to Construct

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

- Project Need
- Project Alternatives
- Project Cost and Economics
- Environmental Impacts
- Landowner Matters
- Indigenous Consultation
- Conditions of Approval

### Project Need

Waste Management of Canada Corporation (WM) plans to construct and operate new RNG facilities at the Twin Creeks Environmental Centre that will produce and convert landfill gas into RNG suitable for injection into Enbridge Gas's system. Enbridge Gas holds existing certificates<sup>1</sup> and franchises<sup>2</sup> authorizing it to construct natural gas works in the Project area. WM requested that Enbridge Gas construct new pipeline facilities to connect the Twin Creeks Environmental Centre RNG facility to Enbridge Gas's network to facilitate the injection of RNG supply volumes.

Enbridge Gas stated that there are no existing pipelines in the vicinity of the Project and that the RNG supply volumes projected to be delivered by WM limits the possible connection locations to its existing natural gas system because the demand on the associated network must be equal to or greater than the proposed injection volume of RNG. Enbridge Gas stated that the only existing system that can accommodate the injection volumes of RNG projected to be delivered by WM is 15.3 kilometres away from the Twin Creeks Environmental Centre RNG facility. Enbridge Gas noted that the Project need is underpinned by the service contract between WM and Enbridge Gas that was effective April 19, 2023.<sup>3</sup> The service contract includes a provision for a monthly surcharge to be paid by WM for the term of the contract. Enbridge Gas stated that the Project is designed to meet the needs of WM and is not dependent on any future or planned leave to construct application.

---

<sup>1</sup> E.B.C 42 (Township of Warwick) and EB-2009-0297 (Municipality of Brooke-Alvinston)

<sup>2</sup> EB-2009-0292 (Township of Warwick) and EB-2009-0296 (Municipality of Brooke-Alvinston)

<sup>3</sup> Enbridge Gas noted that it is not seeking any approvals with respect to the purchase of RNG supply volumes as part of this proceeding.

## OEB Staff Submission

OEB staff submits that the Project is designed to meet the needs of WM and is supported by the service contract between WM and Enbridge Gas.

## **Project Alternatives**

The Project is driven solely by WM's request to connect the Twin Creeks Environmental Centre RNG facility to Enbridge Gas's network.

Enbridge Gas stated that it applied the Binary Screening criteria in the [Integrated Resource Planning \(IRP\) Framework](#) and determined that the Project meets the definition of a Customer-specific build. As such, an IRP evaluation is not required. Section 8.2 of the IRP Framework provides as follows:

**Customer-Specific Builds** - If an identified system need has been underpinned by a specific customer's (or group of customers') clear request for a facility project and either the choice to pay a Contribution in Aid of Construction or to contract for long-term firm services delivered by such facilities, then an IRP evaluation is not required.<sup>4</sup>

Enbridge Gas stated that there is only one existing system the Project can connect to because of the proposed RNG supply volumes.

Enbridge Gas considered various routing options for the Project. The Project route passes by the fewest numbers of business and residences and is in proximity to the fewest Ecological Land Communities (ELC) and fewest potential Significant Wildlife Habitats (SWH). The Project route is also located in an area of less total prime agricultural land and is not within 125 metres of a heritage property or adjacent to a burial site/cemetery. For these reasons, the Enbridge Gas stated that the proposed route is the best alternative based on environmental, socio-economic and technical considerations.<sup>5</sup>

## OEB Staff Submission

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

OEB staff also agrees that an IRP evaluation is not required as the Project falls within the definition of a Customer-specific build.

---

<sup>4</sup> EB-2020-0091, Decision and Order, July 22, 2021, Appendix A

<sup>5</sup> Exhibit F, Tab 1, Schedule 1, Attachment 1, Page 146

## Project Cost and Economics

The total estimated cost of the Project is \$20.4 million, as depicted in Table 1. The costs include a 24% contingency applied to all direct and capital costs. Enbridge Gas stated that the contingency amount is comparable to similar projects approved by the OEB.

**Table 1: Estimated Total Project Costs (\$) <sup>6</sup>**

Item No.	Description	Pipeline Costs	Ancillary Costs	Total Costs
1	Material Costs	3,512,922	970,000	4,482,922
2	Labour Costs	5,804,428	849,548	6,653,977
3	External Permitting & Land	332,000	10,000	342,000
4	Outside Services	2,483,617	1,077,927	3,561,543
5	Direct Overheads	517,007	163,002	680,009
6	Contingency Costs	3,288,993	798,324	4,087,317
7	Direct Capital Costs	15,938,967	3,868,800	19,807,768
8	Indirect Overheads	-	-	-
9	Interest During Construction	435,937	127,537	563,474
10	Total Project Costs	16,374,904	3,996,337	20,371,242

Enbridge Gas and WM have executed a long-term M13 service contract for the Project. The service contract includes a monthly service charge of \$166,146 to be paid by WM. The service contract also has a provision for the true-up of the monthly service charge on an established date based on actual costs. Enbridge Gas confirmed that the monthly service charge will be recalculated in a manner that ensures that the total final actual Project costs will be recovered from WM.<sup>7</sup> Enbridge Gas also confirmed that WM's contractual obligations ensure that regardless of the duration of the operation of the RNG facility, the total actual Project cost will be recovered from WM.<sup>8</sup>

The Discounted Cash Flow (DCF) analysis indicates that the Project has a Profitability Index (PI) of 1.0, and a net present value (NPV) of zero. The application states that, as the Project is fully funded by WM, it will not result in additional costs borne by existing ratepayers.

### OEB Staff Submission

OEB staff accepts the evidence filed by Enbridge Gas in the application and the Interrogatory responses confirming that the Project costs will be fully paid by WM and not borne by ratepayers. As discussed later in this submission, OEB staff recommends a condition of approval that requires Enbridge Gas to confirm that the actual final

<sup>6</sup> Exhibit E, Tab 1, Schedule 1, Page 1

<sup>7</sup> Enbridge Gas Response to OEB Staff 4-a)

<sup>8</sup> Enbridge Gas Response to OEB Staff 4-b)



Project costs are fully funded by WM and not by ratepayers.

## **Environmental Impacts**

Dillion Consulting Ltd. (Dillon) was retained by Enbridge Gas to conduct an environmental and cumulative effects assessment (Study) for the Project. A consultation program was implemented, and a route evaluation was completed as part of the Study. The proposed pipeline route was selected based on environmental, socio-economic and technical considerations. The results of the Study are documented in the Environmental Report (ER) included in the application. The ER also includes a consultation log.

The ER stated that the recommended mitigation measures in combination with the legacy Union Gas's C&M manual are anticipated to effectively protect the physical, natural, and socio-economic features along the pipeline route. The ER concluded that no significant adverse effects are anticipated from the construction and operation of the project with the implementation of the mitigation measures recommended in the ER.

Enbridge Gas stated that it will develop an Environmental Protection Plan (EPP) that incorporates all of the recommended mitigation measures in the ER and any mitigation measures obtained by agency consultation.

The ER was circulated to the Ontario Pipeline Coordinating Committee (OPCC), Lambton County, the St. Clair Region Conservation Authority, the Brooke-Alvinston Council and the Township of Warwick on May 11, 2023.

TMHC Inc. conducted a Stage 1 Archeological Assessment (AA) of the study area. The Stage 1 AA was submitted to the Ministry of Cultural Heritage (MCM) for review on March 20, 2023. Enbridge Gas states that a Stage 2 AA and a Cultural Heritage Report: Existing Conditions and Preliminary Impact Assessment are both underway and will be completed and reviewed by the MCM prior to project construction.

In its response to OEB staff interrogatories, Enbridge Gas provided a table outlining the status and expected timing for all permits and approvals. Enbridge Gas stated that there are no foreseeable delays in obtaining the permits and approvals.<sup>9</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

---

<sup>9</sup> Enbridge Gas Response to OEB Staff 5-g)

Gas's commitment to implement the mitigation measures set out in the ER and to complete the EPP prior to the start of construction. OEB staff submits that Enbridge Gas's compliance with the conditions of approval outlined in Schedule A will ensure that impacts of pipeline construction are mitigated and monitored. OEB staff notes that the proposed conditions of approval also require Enbridge Gas to obtain all necessary approvals, permits, licences, and certificates needed to construct, operate and maintain the Project.

### **Landowner Matters**

Enbridge Gas stated that most of the Project will be located in the municipal road allowance, but that temporary working areas will be required where the road allowance is too narrow or confined to facilitate construction. Enbridge Gas also stated that permanent easement will be required for the project.

Enbridge Gas filed forms of temporary land use<sup>10</sup> and permanent easement<sup>11</sup> agreements for OEB approval. The same forms of agreements were approved by the OEB in another recent proceeding for the Ridge Landfill RNG Project.<sup>12</sup>

In response to OEB staff interrogatories, Enbridge Gas stated that it has initiated negotiations with landowners where permanent or temporary easement is required and if there are delays it may consider alternative plans for construction using available road allowance to prevent impacts to the in-service date.<sup>13</sup>

### **OEB Staff Submission**

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

### **Indigenous Consultation**

On September 12, 2022, in accordance with the OEB's Environmental Guidelines, Enbridge Gas contacted the Ministry of Energy (MOE) in respect of the Crown's duty to consult related to the Project. By letter dated November 10, 2022, the MOE delegated the procedural aspects of the Crown's duty to consult for the Project to Enbridge Gas (Delegation Letter). In the Delegation Letter, the MOE identified the following Indigenous communities that Enbridge Gas should consult in relation to the project:

- Aamjiwnaang First Nation (AFN)

---

<sup>10</sup> Application and Evidence, Exhibit G, Tab 1, Schedule 1, Attachment 2

<sup>11</sup> Application and Evidence, Exhibit G, Tab 1, Schedule 1, Attachment 3

<sup>12</sup> EB-2022-0203

<sup>13</sup> Enbridge Gas Response to OEB Staff 7c) and 7d)

- Bkejwanong (Walpole Island First Nation) (WIFN)
- Chippewas of Kettle and Stony Point First Nation (CKSPFN)
- Chippewas of the Thames First Nation (COTTFN)
- Oneida Nation of the Thames (Oneida Nation)

Direct notice of the application was provided to the five Indigenous communities listed above.

Three Fires Group, an intervenor in this proceeding, is an Indigenous business corporation that represents CKSPFN. In its September 18, 2023, intervention letter, Three Fires Group stated that the traditional territory and associated rights and interests of the Three Fires First Nations' may be impacted by the outcomes of this proceeding.

In its application, Enbridge Gas filed the Indigenous Consultation Report (ICR) describing and documenting the Indigenous consultation it has conducted. In its response to OEB staff interrogatories, Enbridge Gas filed an updated consultation log and stated that the MOE advised that since there is an Indigenous intervenor in the proceeding, the Letter of Opinion (or Sufficiency Letter) will be submitted as close to the end of the record as possible to ensure that the MOE has all the available information to make an assessment.<sup>14</sup>

Three Fires Group filed its interrogatories on October 17, 2023. Many of the interrogatories from the Three Fires Group were related to the ER. AFN, CKSPFN, COTTFN, and WIFN also provided Enbridge Gas with several comments on the ER outside of the OEB's proceeding.

OEB staff notes that in its interrogatory response and in its response to comments from KSPFN, COTTFN, and WIFN on the ER as set out in the updated consultation log, Enbridge Gas elaborated on several aspects of the Project and addressed concerns raised. Enbridge Gas also made several commitments such as to offer monitoring opportunities to AFN in the event that there are in-water work activities, to invite COTTFN to participate in the Stage 2 fieldwork, and to share information about any encounters with wildlife and species at risk during construction with CKSPFN.<sup>15</sup> Enbridge Gas stated that it will continue to provide updates and engage the Indigenous communities identified in the delegation letter on the Project.

### OEB Staff Submission

OEB staff submits that Enbridge Gas appears to have made efforts to engage with affected Indigenous groups and OEB staff is not aware of any concerns that could materially affect the Project that have been raised through Enbridge Gas's consultation

---

<sup>14</sup> Enbridge Gas Response to OEB Staff 8 d) and 8 e)

<sup>15</sup> Enbridge Gas Response to OEB Staff 8 b) and 8 c)

to date. OEB staff observes that Enbridge Gas appears to be cooperating with the Indigenous communities during the consultation process and that it made certain commitments to the Indigenous communities related to the Project. OEB staff is not aware of any potential adverse impacts of the Project to any Aboriginal or treaty rights.

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 MOE 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, assuming no further extended delays, this approach will not put the commencement date of the Project at risk.

Enbridge Gas stated that it requires a decision on the application in February 2024, with construction scheduled to commence in April 2024. 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.

### **Conditions of Approval**

As part of its interrogatories, OEB staff suggested that the OEB's standard conditions of approval for leave to construct applications should apply to the Project with a modification to Condition 6, which requires the applicant to confirm that the actual final Project costs are fully funded by the monthly service charge paid to Enbridge Gas by WM. Enbridge Gas agreed with this suggestion.

### **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, which includes the modification to Condition 6 described above.

## Request for a Certificate of Public Convenience and Necessity

Enbridge Gas holds a Certificate for the Township of Warwick dated August 25, 1965.<sup>16</sup> Enbridge Gas noted that the boundaries of the Township of Warwick have changed since the Certificate was issued due to an amalgamation and other municipal restructuring.<sup>17</sup> The request for a new Certificate is to account for changes to the Township of Warwick's boundaries since the certificate was issued.

Enbridge Gas noted that section 3.6.2 of the *Natural Gas Facilities Handbook* provides as follows:

If the boundaries of a person's existing certificate are affected by a municipal amalgamation or annexation, and no other person holds a certificate for any part of the newly amalgamated or annexed municipal territories, then the person should notify the OEB within 90 days of the date that the change takes effect to have the certificate amended to reflect the change. The OEB will not as a matter of course amend the territory covered by the person's existing certificate to include any additional service area that was added to the municipality through the amalgamation or annexation. The certificate would be amended to include the metes and bounds of the person's existing certificate. However, the certificate holder could also apply for a new certificate that would include any additional service area within the newly amalgamated territories.

Enbridge Gas further noted that it holds certificates and franchises for the municipalities that are immediately adjacent to the Township of Warwick and that the request does not affect another person's certificate rights.<sup>18</sup>

### OEB Staff Submission

OEB staff submits that the OEB should approve Enbridge Gas's request to cancel and supersede the existing certificate for the Township of Warwick dated August 25, 1965, with a new certificate that aligns to the current boundaries of the Township of Warwick.

~All of which is respectfully submitted~

---

<sup>16</sup> E.B.C 42

<sup>17</sup> Exhibit A, Tab 2, Schedule 1, Pages 3 and 4

<sup>18</sup> Enbridge Gas Response to OEB Staff 10-a)

**Schedule A**

**Conditions of Approval**

**EB-2023-0175**

**November 30, 2023**

**Leave to Construct Application under  
Section 90(1) of the OEB Act**

**Enbridge Gas Inc.  
EB-2023-0175**

**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-2023-0175 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 7(b), Enbridge Gas Inc. shall file a Post Construction Financial Report, that:
  - (a) provides 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

(b) confirms that the actual final project costs are fully funded by the monthly service charge from Waste Management of Canada Corporation.

Enbridge Gas Inc. shall also file a copy of the Post Construction Financial Report in the proceeding where Enbridge Gas Inc. proposes to start collecting revenues associated with the Project.

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.