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December 14, 2023

VIA EMAIL and RESS

Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street, Suite 2700
Toronto, ON M4P 1E4

Dear Nancy Marconi:

**Re: Enbridge Gas Inc. (“Enbridge Gas”)
Ontario Energy Board (“OEB”) File: EB-2023-0175
Watford Pipeline Project
Reply Submission**

Consistent with the OEB’s Procedural Order No. 1, enclosed please find the reply submission of Enbridge Gas in the above noted proceeding.

The above noted submission has been filed electronically through the OEB’s RESS.

Please contact the undersigned if you have any questions.

Yours truly,

Eric VanRuymbeke
Sr. Advisor, Leave to Construct Applications

c.c. Guri Pannu (Enbridge Gas Counsel)

IN THE MATTER OF the *Ontario Energy Board Act, 1998*,
S.O. 1998, c. 15, Schedule B; and in particular section
90(1) and section 97 thereof;

AND IN THE MATTER OF the *Municipal Franchises Act*,
R.S.O. 1990, c.M.55, as amended;

AND IN THE MATTER OF an application by Enbridge Gas
Inc. for an order granting leave to construct natural gas
pipelines in the Municipality of Brooke-Alvinston and the
Township of Warwick, in the County of Lambton;

AND IN THE MATTER OF an application by Enbridge Gas
Inc. for an order cancelling and superseding the existing
Certificate of Public Convenience and Necessity held by
Enbridge Gas Inc. for the former Village of Watford and the
former Township of Warwick and replacing it with a new
Certificate of Public Convenience and Necessity to
construct works to supply natural gas in the Township of
Warwick.

**ENBRIDGE GAS INC.
REPLY SUBMISSION**

OEB File No. EB-2022-0175

December 14, 2023

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INTRODUCTION

1. Pursuant to Procedural Order No. 1 issued by the Ontario Energy Board (“OEB”) on October 4, 2023, this is the reply submission of Enbridge Gas Inc. (“Enbridge Gas” or the “Company”) related to the construction of a natural gas main with a design pressure of 6,160 kPag to connect the Twin Creeks Environmental Centre renewable natural gas (“RNG”) facility located near the community of Watford in the Township of Warwick to the existing Enbridge Gas system located in the Municipality of Brooke-Alvinston, Ontario.
2. Waste Management of Canada Corporation (“WM” or the “Customer”) plans to construct and operate RNG gathering, upgrading and compression facilities at the existing Twin Creeks Environmental Centre. To facilitate the injection of RNG, WM has requested that Enbridge Gas construct new pipeline facilities to connect the Twin Creeks Environmental Centre RNG facility to the existing local Enbridge Gas natural gas system. In addition to the proposed pipeline, Enbridge Gas also intends to construct a RNG injection station at the Twin Creeks Environmental Centre site. The RNG injection station will connect to the proposed pipeline downstream of WM’s upgrading and compression facilities.¹
3. Enbridge Gas and WM have executed a service contract for the Project. The service contract is an M13 agreement that includes a monthly service charge to the Customer over the 20 year term of the Contract. The monthly service charge represents the amount required to be paid by the Customer in order to generate a PI of 1.0 for the Project. The Project is fully funded by WM and no costs will be borne by the existing ratepayer.
4. Enbridge Gas is seeking an order from the OEB granting leave to construct approximately 15.3 km of Nominal Pipe Size (“NPS”) 6 inch Steel (“ST”)

¹ Together, the proposed pipeline and RNG injection station are referred to as the “Project”.

natural gas main with a design pressure of 6,160 kPag and pursuant to Section 8 of the *Municipal Franchises Act* an order cancelling and superseding the existing Certificate of Public Convenience and Necessity held by Enbridge Gas for the former Village of Watford and the former Township of Warwick and replacing it with a new Certificate of Public Convenience and Necessity to construct works to supply natural gas in the Township of Warwick (“Application”).

5. With the necessary approvals of the OEB, Enbridge Gas expects to construct the Project between April and December of 2024. To meet the proposed Project construction timelines, Enbridge Gas respectfully requests approval of this Application by February 2024.
6. Submissions on the evidence in this proceeding were filed by OEB staff, Pollution Probe, and Three Fires Group Inc. (“Three Fires” or “TFG”).
7. Pollution Probe recommends approval of the Project:

Pollution Probe recommends that the OEB approve the Leave to Construct request for this project, given that Waste Management has agreed to pay the capital costs and will pay the related annual O&M costs.²

8. OEB staff expressed full support for approval of the Project and raised no concerns:³

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 supports the approval of the forms of agreement for permanent easement and temporary land use proposed by Enbridge Gas.. In addition, OEB staff supports that Enbridge Gas’s request for a Certificate for the Township of Warwick should be approved.⁴

² Pollution Probe Submissions, November 30, 2023, p. 2.

³ With the exception of OEB staff’s recommendations regarding procedure in the case that a letter from the MOE confirming the sufficiency of Enbridge Gas’s Indigenous consultation activities is not received before an OEB decision is made (found at OEB staff Submission, November 30, 2023, p. 9).

⁴ OEB staff Submission, November 30, 2023, p. 1.

9. Three Fires Group has identified a number of concerns (addressed by Enbridge Gas below) and has asked for detailed relief in relation to predominantly environmental matters. While TFG has identified concerns, TFG has not expressed that it is opposed to the Project.
10. Through the balance of this submission, Enbridge Gas highlights the submissions of OEB staff supporting the Project and responds to the specific submissions and recommendations of OEB staff, Pollution Probe and TFG. Please note, instances where the Company does not respond to a particular issue raised by Pollution Probe or TFG should not be taken as agreement with their position.

PROJECT NEED

11. Enbridge Gas has demonstrated the need for the Project based on the following:
- (i) WM has requested that Enbridge Gas construct new pipeline facilities to connect its Twin Creeks Environmental Centre RNG facility to the existing local Enbridge Gas natural gas system to facilitate injection of RNG supply volumes produced at the facility;
 - (ii) the nearest pipelines are designed at pressures of 420 kPag and 3,450 kPag and cannot accommodate the injection of the volume of RNG requested by WM as the demand on the network must be greater than or equal to the proposed injection volume;
 - (iii) the nearest existing infrastructure that can facilitate the RNG injection requested by WM is 15.3 km away from the Twin Creeks Environmental Centre, along municipal road allowances;
 - (iv) the Project is designed to meet the needs of WM and is not dependent on any future or previously filed leave to construct applications by Enbridge Gas;

- (v) the Project is underpinned by the M13 contract (“Contract”) executed between Enbridge Gas and WM, effective April 19, 2023.⁵ The Contract includes a provision for a monthly service charge received from WM over the 20 year term of the Contract; and
- (vi) the Project is supported by the Municipality of Brooke-Alvinston, Township of Warwick, the Sarnia-Lambton Economic Partnership.⁶

12. OEB staff affirms that the need for the Project has been demonstrated in their 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.⁷

13. Pollution Probe made submissions regarding the carbon intensity and “emissions credits” related to the RNG produced at the RNG Facility by WM, as well as the emissions reduction estimate provided by Enbridge Gas in the Environmental Report and Notice of Study Commencement for the Project.⁸

14. As indicated by Enbridge Gas in response to interrogatories,⁹ and as reiterated by OEB staff in its submissions:

Enbridge Gas noted that it is not seeking any approvals with respect to the purchase of RNG supply volumes as part of this proceeding.¹⁰

15. As Enbridge Gas is not seeking any approvals with respect to the purchase of the RNG produced by WM at its RNG Facility and Project need is not justified on this basis, the issues raised by Pollution Probe with regard to the carbon intensity, emissions credits and emissions reduction estimate for the

⁵ Exhibit E, Tab 1, Schedule 1, Attachment 3.

⁶ Exhibit B, Tab 1, Schedule 1, Attachments 1-3.

⁷ OEB staff Submission, November 30, 2023, p. 4.

⁸ Pollution Probe Submissions, November 30, 2023, p. 4.

⁹ Exhibit I.STAFF-2, part c) and Exhibit I.Three Fires-5 part d).

¹⁰ OEB staff Submission, November 30, 2023, p. 2, Footnote 3.

RNG produced at the Twin Creeks Environmental Centre RNG facility by WM are not relevant to the issues and approval sought in this leave to construct application and they are well beyond the scope of the current proceeding. Pollution Probe¹¹ also admitted that defining RNG and the process for calculating emissions reductions are beyond the scope of this LTC. Similarly, Pollution Probe made identical submissions in the Ridge Landfill RNG Project¹² regarding the carbon intensity and the emissions credits, and the OEB approved the Project, noting in its findings that Enbridge Gas was not seeking approval of the purchase of RNG volumes.

16. Enbridge Gas also rejects Pollution Probe's assertion that there is a risk of Enbridge Gas misinforming or greenwashing in regards to the benefits of RNG. In fact, despite the information that the carbon intensity of RNG can vary significantly between individual projects and Enbridge Gas does not have carbon intensity data for this specific landfill gas project¹³, Pollution Probe acknowledges that there are benefits to WM supplying RNG to the market in Ontario.¹⁴ The information Enbridge Gas is providing is based on the role of RNG lowering emissions, as set out in Ontario's Environmental Plan and the province's Powering Ontario's Growth: Ontario's Plan for a Clean Energy Future.¹⁵

17. With respect to the future use of the proposed pipeline, Pollution Probe states that maximizing access to pipeline assets is in the public interest.¹⁶

18. As stated in response at Exhibit I.STAFF-2, part a), due to the pressure of the pipeline, no direct connections are permitted. Once this pipeline is

¹¹ Pollution Probe Submission, November 30, 2023, p. 5, "Defining that process is beyond the scope of this proceeding, but will become more important if Enbridge or the OEB believes that RNG could play a potential decarbonization role in Ontario".

¹² EB-2022-0203

¹³ Exhibit I.PP-7 parts a-b).

¹⁴ Pollution Probe Submission, November 30, 2023, p. 5.

¹⁵ Exhibit I.PP-1 part a).

¹⁶ Pollution Probe Submission, November 30, 2023, p. 6.

constructed and in-service, there may be property owners along the pipeline route who would like to connect to the natural gas system. In these cases, a separate project with separate, smaller natural gas distribution pipe would be required.

19. Further, as stated in response at Exhibit I.PP.3, Enbridge Gas is currently working with WM to determine their pressure and their hourly, daily, and annual forecast natural gas usage. Any natural gas services constructed by Enbridge Gas for Twin Creeks ancillary facilities are distinct from the current Project and are not anticipated to require any OEB approvals.
20. In its submission, Pollution Probe also recommends that “all projects be included in future AMP iterations to ensure a consistent assessment and treatment”.¹⁷ Enbridge Gas does not support Pollution Probe’s recommendations in this regard as they have much broader implications and exceed the scope of the proceeding, as they amount to a significant deviation from the existing practice of excluding non-core projects from the Company’s Asset Management Plan (“AMP”).
21. In general, Pollution Probe recommends that the OEB issue an order granting leave to construct the Project because Project need has been established:

Pollution Probe recommends that the OEB approve the Leave to Construct request for this project, given that Waste Management has agreed to pay the capital costs and will pay the related annual O&M costs.¹⁸

Pollution Probe is not aware of any reason why the OEB should not also approve the Certificate of Public Convenience and Necessity changes requested by Enbridge.¹⁹

¹⁷ Pollution Probe Submission, November 30, 2023, p. 6.

¹⁸ Pollution Probe Submission, November 30, 2023, p. 2.

¹⁹ Pollution Probe Submission, November 30, 2023, p. 3.

22. In regards to Project need, TFG emphasized that the OEB should consider the alternatives that WM (i.e. the energy producer) had available to it.²⁰ Firstly, Enbridge Gas is not a formal partner with WM and it is not producing the RNG. Enbridge Gas is helping to facilitate the injection of RNG into the distribution system. In order to do so, Enbridge Gas is required to apply for an LTC pursuant to section 90 of the OEB Act for the construction of a “hydrocarbon line”. There is no requirement by the OEB Act under section 90 to impose a requirement by the customer to provide the information requested. Moreover, if the criteria under section 90 requiring leave were not triggered, Enbridge Gas would not need to seek OEB approval. Secondly, in the Natural Gas Facilities Handbook the OEB provides a list of the standard issues that are typically considered for a LTC application. There is no requirement from the OEB in this Handbook for the Customer to provide the information sought by TFG. Thirdly, the OEB has stated that Customer Specific Builds do not require IRP assessment by Enbridge Gas so it would appear inconsistent for WM to provide an alternative analysis in order to establish Project need. EGI respectfully submits that the TFG request that the OEB require project proponents to provide an analysis on alternatives is well beyond the scope of an LTC application and it is not required nor helpful in determining this application.

PROJECT ALTERNATIVES

23. On the issue of Project alternatives, Enbridge Gas considered the need to assess the viability of Integrated Resource Planning (“IRP”) alternatives to providing built capacity to deliver gas. Through the application of the Binary Screening Criteria, the Company determined that the Project falls under the definition of “customer-specific builds” in the IRP Framework approved by the OEB and therefore an IRP evaluation is not required. In EB-2022-0203, the OEB determined that projects that fall under the customer specific build

²⁰ Three Fires Submission, November 30, 2023, pp. 22-23

category do not require an IRP evaluation.²¹ OEB staff accepted this determination.²²

24. Additionally, the evidence demonstrates that the proposed route and proposed size of the pipe (i.e. NPS 6) is the most feasible option to meet WM's need. Enbridge Gas described its consideration of a number of potential routes for the Project. The Environmental Report notes that the proposed route is the preferred route from an environmental and socio-economic perspective.²³ In its IR responses, Enbridge Gas illustrated that the nearest pipelines are designed at pressures ranging from 420 kPag to 3,450 kPag and therefore cannot accommodate the injection of the volume of RNG requested by WM. A NPS 6 inch pipe is required for the the Customer to be able to access the market unimpeded at their maximum flow rate of 7,661 m³/hr, as a NPS 4 inch pipeline is only able to flow a capacity of 5,442 m³/hr.²⁴

25. With a NPS 4 inch pipeline unable to satisfy the flow capacity and pressure differential requirements and the nearest pipeline systems not designed to support the high pressure, there are no other feasible facility alternatives able to meet WM's need.²⁵

26. Enbridge Gas submits that the Project need is best addressed by the proposed Project, and that the Company has adequately considered all viable alternatives. OEB staff agrees with Enbridge Gas that the Project represents the best alternative to meet the Project need:

²¹ Exhibit C, Tab 1, Schedule 1, p. 1.

²² OEB staff Submission, November 30, 2023, p. 4.

²³ Exhibit F, Tab 1, Schedule 1, Attachment 1 Redacted, Section 5.1; OEB staff Submission, November 30, 2023, p. 4.

²⁴ Exhibit C, Tab 1, Schedule 1, p. 2; Exhibit I.STAFF-7; Exhibit I.PP-3 part b).

²⁵ Ibid.

Based on Enbridge Gas's evidence, OEB staff submits that the Project is the best alternative to meet the stated need and that the proposed route is acceptable.²⁶

PROJECT COST & ECONOMICS

27. On the issue of Project costs and economics, Enbridge Gas explained that the total cost of the Project is estimated to be \$20.4 million. An economic analysis has been completed in accordance with the OEB's recommendations in its E.B.O 188 Report of the Board on Natural Gas System Expansion ("E.B.O. 188"). The Project has a Net Present Value ("NPV") of \$0 and a Profitability Index ("PI") of 1.0.

28. As discussed in the Project Need section above, Enbridge Gas and WM executed a M13 Contract.²⁷ A monthly service charge received from the Customer over the 20 year term of the Contract represents the amount required to be paid by the Customer in order to generate a PI of 1.0 for the Project.

29. OEB staff has no concerns with Project costs and economics:

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.²⁸

30. Pollution Probe raised that if there is a project overage by Enbridge Gas, rate payers could be asked to pay the difference by Enbridge Gas in a future rate proceeding. OEB staff submissions based on interrogatory responses from Enbridge Gas state:

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. Enbridge Gas also confirmed that WM's contractual obligations ensure that regardless of the

²⁶ OEB staff Submission, November 30, 2023, p. 4.

²⁷ Exhibit E, Tab 1, Schedule 1, Attachment 3.

²⁸ OEB staff Submission, November 30, 2023, p. 5.

duration of the operation of the RNG facility, the total actual Project cost will be recovered from WM.²⁹

31. Pollution Probe raises a concern that Enbridge Gas is proposing rate changes impacting RNG injection services as part of its current 2024 Rebasing Application (EB-2022-0200), and it is unclear if either of these changes will have an impact on WM or its contract.³⁰ Enbridge Gas submits that any rate matters (including changes to M13 rates and charges) as well as the capital expenditure forecast proposed as part of Enbridge Gas's 2024 Rate Rebasing Application exceed the scope of the current proceeding and are more appropriately addressed as part of the Rebasing proceeding.

32. Enbridge Gas submits that the evidence in this proceeding demonstrates that Project costs are reasonable and that the Project is economically feasible as it is fully funded by WM and will not result in additional costs borne by existing ratepayers.

ENVIRONMENTAL IMPACTS

33. On the issue of environmental impacts, OEB staff states:

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 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.³¹

34. Pollution Probe suggests the OEB should require that Enbridge Gas follow all recommendations from the Environmental Report, the Aamjiwnaang First

²⁹ Ibid.

³⁰ Pollution Probe Submission, November 30, 2023, p. 7.

³¹ OEB staff Submission, November 30, 2023, pp. 6-7.

Nation Review Report and those related to permitting and approval agencies. It is important that all relevant information be included in an OEB filing and this information should be proactively filed rather than in response to Intervenor and OEB staff Interrogatories. The OEB may wish to comment to avoid this situation for future projects.³²

35. TFG submissions expressed concerns with the summary of the history of First Nations in the Environmental Report and highlighted certain environmental concerns related to suspect soils, groundwater, aquatic habitats, wildlife and wildlife habitat, monitoring of fugitive emissions and invasive species risk, site restoration, miscellaneous notifications and protections.

36. Enbridge Gas submits the Environmental Report was completed in accordance with the OEB's *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario* (the "Guidelines"). In terms of the concerns specifically identified by TFG related to environmental matters, TFG's submission unfairly diminishes the efforts made, both in the context of the Environmental Report and through ongoing consultation with potentially affected Indigenous groups, to understand Indigenous history in the Project area as well as current use and concerns. The Stage 1: Archaeological Assessment included in Appendix A of the Environmental Report, which was provided to Indigenous groups for comment, provides significant detail as to the history of the area and is not merely limited to four paragraphs as TFG's submission implies.³³ The Ministry of Citizenship and Multiculturalism ("MCM") has accepted the Stage 1 AA into their Registry. Furthermore, adding to the analysis outlined in the Environmental Report, and as expanded upon further below, Enbridge Gas's consultation activities provided, and continue to provide, the Indigenous

³² Pollution Probe Submission, November 30, 2023, p. 6.

³³ Exhibit F, Tab 1, Schedule 1, Attachment 1 Redacted, Appendix A

groups the opportunity to add to the information contained in the Environmental Report and communicate their perspective. Enbridge Gas has taken this information into account and responded to any comments and concerns from Indigenous groups about the Project.

37. Enbridge Gas submits the mitigation measures it has identified and committed to, which were informed by its consultation with Indigenous groups, are appropriate in the circumstances. In addition to employing the primary mitigation measure of avoidance by placing the Project along the existing road allowance and proposing trenchless watercourse crossings, Enbridge Gas has identified numerous other mitigation measures to address the type of concerns identified in TFG's submission. These mitigation measures are detailed in the Environmental Report as well as in the responses to Indigenous groups' comments on the Project and will be reflected in the Environmental Protection Plan ("EPP").³⁴ With the implementation of these mitigation measures, including contingency plans, there are no anticipated significant residual environmental effects.³⁵ The additional mitigation measures, plans for monitoring and testing and reporting proposed in TFG's request for relief are not required given the already identified mitigation measures and commitments as well as other applicable regulatory and permitting requirements (for example, Environmental Protection Act (1990) (which includes Reg 347 - Waste Management, Reg 406/19 - Excess Soil, Reg. 153/04 - Record of Site condition); the Conservation Authorities Act (1990); Endangered Species Act (2007); and the Occupational Health and Safety Act (1990)).

38. Furthermore, in terms of the relief requested by TFG that would have Enbridge Gas provide plans and procedures to Indigenous groups for their

³⁴ Exhibit F, Tab 1, Schedule 1, p. 3.

³⁵ Exhibit F, Tab 1, Schedule 1, pp. 3-4.

review and comment prior to implementation, Enbridge Gas submits there is no need to grant the specific relief outlined in TFG's submission. As explained further below, Enbridge Gas has undertaken significant consultation with Indigenous groups, providing them with detailed Project information and making significant efforts to understand and address their concerns, including through additional commitments. Furthermore, Enbridge Gas is committed to continuing to engage with Indigenous groups potentially affected by the Project to address any additional concerns they may have. Specifically, Enbridge Gas has demonstrated its commitment to ongoing consultation by agreeing to share, for example, its tree removal plans (if the need for tree removal should arise) as well as information regarding large wildlife encounters and incidents, species at risk encounters, the identification of nests during construction activities, the discovery of archaeological resources during construction, reportable spills and monitoring reports.³⁶ To the extent that potentially affected Indigenous groups have concerns in relation to this information or any other matter related to the Project, Enbridge Gas would have a standing offer to meet the Indigenous groups to discuss any concerns and has committed to considering mitigation measures recommended by Indigenous communities where applicable.³⁷ Enbridge Gas submits that, recognizing the consultation on the Project to date and the commitment to ongoing consultation throughout the lifecycle of the Project, as well as the appropriateness of the mitigation measures proposed and committed to, there is no need for additional formal comment processes to be completed prior to implementation of necessary plans and procedures.

39. For additional clarity, the following offers specific comments on TFG's identified areas of environmental concern:

³⁶ Exhibit I. Staff 8 parts b-c).

³⁷ Exhibit I. Three Fires-34 part c).

- **Suspect Soils-** With respect to soil contamination, Enbridge Gas has committed to providing training to all contractors and Company personnel working in the field on the Project for the identification of suspect soils³⁸ and contracting a third party environmental inspector who is qualified to monitor the Project to ensure that the measures in place for environmental protection and regulatory compliance are adhered to throughout construction, including the appropriate management of any discovered suspect or contaminated soils.³⁹ The post-construction monitoring reports, which are publicly available through the OEB website, will include confirmed contaminated soil encounters (excluding specific landowner information) as well as a summary of the environmental training provided. Enbridge Gas has indicated that it will share the monitoring reports with TFG directly upon their submission to the OEB.⁴⁰
- **Groundwater and Aquatic Habitats-** With respect to TFG's specific concerns regarding groundwater contamination, Enbridge Gas commits to manage and dispose of potentially contaminated groundwater it encounters during construction in accordance with applicable regulatory requirements. Enbridge Gas will implement drilling fluid release contingency measures and any additives used in its horizontal directional drilling ("HDD") operations for the Project will be newly sourced and will comply with applicable environmental regulations and any excess bentonite slurry would be managed in accordance with O. Reg 406/19- *On-site and Excess Soil Regulation*. In terms of aquatic habitat, Enbridge Gas has committed to contracting a qualified third party environmental inspector to monitor aquatic habitats during HDD operations to ensure that the measures in place for

³⁸ Exhibit I.STAFF-8, Attachment 2, p. 64

³⁹ Exhibit F, Tab 1, Schedule 1, p. 3.

⁴⁰ Exhibit I.STAFF-8, Attachment 2, p. 80; Exhibit I.Three Fires-30 parts c-g).

environmental protection and regulatory compliance, including drilling fluid release contingency measures, are adhered to throughout construction of the Project. Furthermore, Enbridge Gas has committed to notifying TFG in the event of a reportable spill,⁴¹ i.e. any spills in which an adverse effect has occurred as defined in the *Ontario Environmental Protection Act*, stemming from the Project, which would encompass inadvertent returns of drilling slurry into watercourses.

- **Wildlife and Wildlife Habitats-** With respect to TFG's specific concerns regarding wildlife and wildlife habitats, the Environmental Report provides details on how the construction schedule will take into account applicable restricted activity periods for wildlife, and how wildlife habitat and migration will be accommodated during construction.⁴² Enbridge Gas will use an individual qualified to conduct wildlife sweeps within the Project area where suitable habitat exists prior to construction in accordance with industry standards and has committed to sharing with TFG information regarding large wildlife and large active wildlife habitat encounters and incidents.⁴³ Enbridge Gas has committed to nest sweeps within 7 days, as recommended in the Environmental Report, and will share information regarding any active nests found during sweeps with TFG.⁴⁴ While no bat roosting habitat is anticipated to be directly impacted by the Project, if removal of potential bat roosting trees is required, Enbridge Gas has committed to providing monitoring opportunities to Indigenous groups during bat roosting sweeps.⁴⁵
- **Ongoing Monitoring of Fugitive Emissions and Invasive Species Risk-** In terms of fugitive emissions, Enbridge Gas has explained the

⁴¹ Exhibit I.Staff 8, Attachment 2, page 79; Exhibit I.Three Fires-28 part b).

⁴² Exhibit F, Tab 1, Schedule 1, Attachment 1 Redacted, Table 6-7.

⁴³ Exhibit I.STAFF-8, Attachment 2, page 70; Exhibit I.Three Fires-23 part a).

⁴⁴ Exhibit I.Three Fires-23 part c).

⁴⁵ Exhibit I.STAFF-8 parts b-c); Exhibit I.STAFF-8, Attachment 2, pp. 19 and 70; Exhibit I.Three Fires-23 part d).

steps it takes to test the piping and components and protect the steel surfaces from corrosion as well as the surveys undertaken to confirm adequate corrosion protection remains in place and if found wanting, the steps taken to ensure adequate protection is maintained. This, coupled with the annual leak survey of the gas main and RNG station and immediate reporting of leak indications, which are investigated and repaired as soon as possible, demonstrates its commitment to minimizing fugitive emissions.⁴⁶ With respect to invasive species, Enbridge Gas has committed to appropriate mitigation measures to minimize the spread of invasive species⁴⁷ and will conduct post-construction monitoring consistent with OEB Guidelines.

- **Miscellaneous Notifications and Protections-** For clarity, Enbridge Gas will implement Tree Protection Zones where trees to be retained may be impacted and has committed to sharing tree removal plans for the Project with TFG should the need arise.

LANDOWNER IMPACTS

40. Regarding potential landowner impacts, intervenors and OEB staff raised no issues related to the Project and OEB staff stated:

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.⁴⁸

INDIGENOUS CONSULTATION

41. On the issue of Indigenous consultation, Enbridge Gas explained that it has been delegated the procedural aspects of the duty to consult with potentially

⁴⁶ Exhibit I.Three Fires-19 part f).

⁴⁷ Exhibit F, Tab 1, Schedule 1, Attachment 1 Redacted, Table 6-6.

⁴⁸ OEB staff Submission, November 30, 2023, p. 7.

impacted Indigenous groups by the Ministry of Energy (“ENERGY”). In accordance with the OEB’s Guidelines, an Indigenous Consultation Report outlining consultation activities Enbridge Gas has conducted has been prepared and provided to ENERGY and filed with the OEB.⁴⁹ In its submission, OEB staff notes that Enbridge Gas appears to have made efforts to engage with affected Indigenous groups and no concerns that could materially affect the Project have been raised through Enbridge Gas’s consultation to date.⁵⁰

42. Enbridge Gas has not yet received a letter from ENERGY confirming sufficiency of Indigenous consultation activities on the Project (“Sufficiency Letter”). Enbridge Gas has been in contact with ENERGY regarding its consultation activities for the Project and is not aware of any reasons why a Sufficiency Letter would not be issued by ENERGY in advance of a Decision and Order of the OEB on the current Application. ENERGY aim will be to submit the Sufficiency Letter as close to the end of record as possible, which will likely be soon after December 14.⁵¹

43. OEB staff submitted that the OEB should wait to grant leave to construct the Project until the Sufficiency Letter is filed by Enbridge Gas and that in the case that the Sufficiency Letter is not received or filed prior to record close, the OEB could place the proceeding in abeyance until such time that the Sufficiency Letter is filed.⁵² Enbridge Gas submits that placing the proceeding in abeyance is not necessary and instead suggests that Enbridge Gas would accept the OEB imposing the standard requirement to file the Sufficiency

⁴⁹ Exhibit H, Tab 1, Schedule 1, Attachments 5 and 6; Exhibit I.STAFF-8.

⁵⁰ OEB staff Submission, November 30, 2023, pp.8-9.

⁵¹ Exhibit I.STAFF-8 part e).

⁵² OEB staff Submission, November 30, 2023, p. 9.

Letter as a condition of approval for the Project, consistent with the OEB's determinations in past proceedings.⁵³

44. TFG's submission expresses concern regarding Enbridge Gas's consultation with respect to the Project and specifically requested that Enbridge Gas be more proactive in incorporating the histories and positions of First Nations for leave to construct applications. Contrary to the suggestions of TFG, and consistent with Enbridge Inc.'s Indigenous Peoples Policy and the evidence on this record, Enbridge Gas undertook early and meaningful Indigenous consultation with potentially affected Indigenous groups, as identified by ENERGY, in relation to the Project and has committed to continue to engage with those Indigenous groups throughout the lifecycle of the Project. Enbridge Gas undertook this consultation in good faith, with a view to gathering relevant information from the Indigenous groups and addressing their concerns. This involved providing detailed Project information, answering specific questions, making additional commitments and offering Indigenous groups the opportunity to engage in field work. On a number of occasions, Enbridge Gas requested the input of Indigenous groups in order to better understand how any potential impacts from the Project on Indigenous interests could be avoided or mitigated. Capacity funding was offered to support these activities. Detailed information about this engagement, including any identified Indigenous concerns and Enbridge Gas's responses to those concerns, has been filed on the record of this proceeding, both in the initial Application and through subsequent updates.
45. With respect to CKSPFN specifically, Enbridge Gas appreciated the information CKSPFN provided, including information as to the Indigenous history of the area. Far from ignoring the importance of this aspect of the

⁵³ EB-2017-0261, OEB Decision and Order on the Scugog Island Community Expansion Project; EB-2020-0192, OEB Decision and Order on the London Lines Replacement Project.

area's history, Enbridge Gas's consultation efforts reflect the importance of that history, as Enbridge Gas sought to understand how the Project might affect Indigenous rights and interests and whether the planned mitigation measures were appropriate in the circumstances or whether certain additional measures were in order. Recognizing CKSPFN's interests in the area, and particularly the concerns related to water resources and the subsurface environment, Enbridge Gas responded to numerous and extensive questions and comments from CKSPFN in relation to the Project in general and more specifically with respect to the environmental assessment.

46. In response to CKSPFN's comments on the Environmental Report, Enbridge Gas provided further information regarding the Project and additional explanation of its assessment as well as the planned mitigation measures, in relation to the myriad of subject areas that were the focus of CKSPFN's comments, including species at risk, watercourses and groundwater, wildlife, aquatic species, the subsurface environment, air quality and atmospheric environment, cumulative effects and archaeological resources. Enbridge Gas emphasized its commitment to ongoing consultation and reflected this commitment by agreeing to share additional information with CKSPFN in relation to tree removal plans as well as information regarding large wildlife encounters and incidents, species at risk encounters, the identification of nests during construction activities, the discovery of archaeological resources during construction, reportable spills and monitoring reports. Enbridge Gas offered to meet again to review responses and address any issues or concerns CKSPFN may have. In addition, Enbridge Gas responded to numerous information requests of TFG in this proceeding and, through this reply submission, has further explained the information that has been provided.

47. As noted above, TFG has asked for the Board to be very prescriptive in terms of additional information to be shared with TFG, with requests for further

opportunities to review and comment on Project-related documentation. In Enbridge Gas's view, this additional relief is not necessary as Enbridge Gas has already committed to continuing to engage with potentially impacted Indigenous groups throughout the lifecycle of the Project, which allows for discussion of each Indigenous groups specific concerns in the specific circumstances.

CONDITIONS OF APPROVAL

48. In their submission, OEB staff supports the Application subject to proposed conditions of approval, included in Schedule A of OEB staff's submission.

49. Enbridge Gas hereby confirms its intention to satisfy the conditions as described in Schedule A of OEB staff's submission and will comply with the final conditions of approval established by the OEB.

50. As discussed in the Indigenous Consultation section above, Enbridge Gas submits that placing the proceeding in abeyance if a Sufficiency Letter is not received or filed prior to record close is not necessary and instead suggests that Enbridge Gas would accept the OEB imposing the standard requirement to file the Sufficiency Letter as a condition of approval for the Project, consistent with the OEB's determinations in past proceedings.⁵⁴

CONCLUSION

51. Enbridge Gas has provided clear and compelling evidence to support that the Project is in the public interest. In considering the typical factors in support of a leave to construct application, the evidence submitted by Enbridge Gas has

⁵⁴ EB-2017-0261, OEB Decision and Order on the Scugog Island Community Expansion Project; EB-2020-0192, OEB Decision and Order on the London Lines Replacement Project.

shown there is a clear need for the Project. The evidence also illustrates that the Project need and cost is not borne by the Ontario ratepayer as it is fully supported by the M13 Contract executed between Enbridge Gas and WM. Enbridge Gas has demonstrated that the proposed route and pipeline size is the most feasible option⁵⁵ and this is supported by OEB staff. Furthermore, there were no material concerns raised by OEB staff and the intervenors with respect to land matters.

52. Furthermore, Enbridge Gas has demonstrated extensive consultation with Indigenous groups and no material concerns were raised that would affect the Project. Enbridge Gas has also committed to ongoing consultation during the lifecycle of the Project. Similarly in regards to the environment, Enbridge Gas notes that the Project is mostly in road allowance, the Environmental Report was prepared in accordance with the OEB's Environmental Guidelines, and it has committed to a number of mitigation measures as set out in the Environmental Report and EPP. OEB Staff also agreed that any environmental issues would be mitigated by the Environmental Report, EPP and permitting/licensing and approval process.

53. Accordingly Enbridge Gas respectfully submits that the OEB should conclude that the proposed Project is in the public interest and issue an order granting leave to construct the Project, subject to the conditions of approval proposed by OEB staff. Additionally, Enbridge Gas requests 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.

⁵⁵ Exhibit F, Tab 1, Schedule 1, Attachment 1 Redacted, Section 5.1.