

March 25, 2024

VIA EMAIL and RESS

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

Dear Nancy Marconi:

**Re: Ontario Energy Board (OEB) Invitation to Comment
EB-2022-0011 and EB-2024-0079: Proposed Revisions to the Indigenous
Consultation Provisions of the *Environmental Guidelines for the Location,
Construction and Operation of Hydrocarbon Projects and Facilities in
Ontario***

Thank you for the opportunity to review the OEB's proposed revisions to the Indigenous consultation provisions of its *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Projects and Facilities in Ontario* (Environmental Guidelines). Enbridge Gas Inc. (Enbridge Gas) supports the key proposed revision that would enable the OEB to be the sole authority responsible for determining whether the Duty to Consult has been adequately discharged in respect of a hydrocarbon project as it increases regulatory efficiency. Enbridge Gas also appreciates the OEB's efforts to improve the clarity of the Environmental Guidelines, especially in regard to the details of what must be provided in the Indigenous Consultation Report (ICR) that a project proponent must file with its application.

Bullet 3 on page 6 of *Appendix A – Proposed Revised Version of Section 3.2 of the Environmental Guidelines* states the following:

“Copies of all written communications between the applicant and Indigenous communities, and detailed summaries of any and all meetings or phone calls between the applicant and Indigenous communities (such as notes or meeting minutes)”¹

Enbridge Gas specifically has a comment regarding the wording, “Copies of all written communications...”. Currently, in its leave to construct applications, Enbridge Gas provides an overview of its Indigenous consultation approach for the Project and attaches an ICR, which describes all written and oral communications between Enbridge Gas representatives and the Nations identified by the Ministry of Energy as being potentially affected by the Project. The ICR also specifically identifies the concerns expressed by the Nations and the steps Enbridge Gas has taken or will take to address those concerns. In addition to the ICR, Enbridge Gas attaches summary tables, which further synthesize the information provided in the ICR.

¹ Section 3.2, page 6, bullet 3.

As part of the ICR, Enbridge Gas currently provides copies of the substantive written communications between its representatives and the identified Nations, which are primarily those communications that reflect the questions asked or concerns expressed by the Nations and Enbridge Gas's responses to those questions or concerns. Enbridge Gas does not include written communications that are more administrative in nature, such as emails arranging times for meetings.

Enbridge Gas submits that the current practice of providing copies of only the substantive written communications is appropriate as it is consistent with what should be the focus of the proceedings, i.e., any substantive issues identified by the Nations and Enbridge Gas's efforts to address those issues. Furthermore, the current approach does not clutter the record and avoids the administrative burden associated with filing all of the correspondence, which may contain personal information and irrelevant matters (e.g., scheduling meeting times). In the unlikely event that the more administrative written communications become an issue in the proceedings, such correspondence is still generally accessible through the discovery process. In Enbridge Gas's view, limiting the requirement to filing substantive correspondence is also more consistent with the goal of regulatory efficiency and the practice of other Canadian regulators, that often only require the filing of consultation logs and only request actual copies of written communication or supporting documentation on an as-needed basis.

If you have any questions, please contact the undersigned.

Yours truly,

Evan Tomek
Advisor, Regulatory Applications – Leave to Construct