



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

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# DECISION AND ORDER

**EB-2023-0260**

## ENBRIDGE GAS INC.

**Application for leave to construct natural gas pipelines in the City of Toronto**

**BEFORE: Emad Elsayed**  
Presiding Commissioner

**Fred Cass**  
Commissioner

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**April 18, 2024**



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## 1 OVERVIEW

On November 7, 2023, Enbridge Gas Inc. (Enbridge Gas) applied to the Ontario Energy Board under section 90(1) of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B) (OEB Act), for an order granting leave to construct approximately 345 metres of natural gas pipelines in the City of Toronto (the Project). As part of its application, Enbridge Gas requested OEB approval under section 97 of the OEB Act of the form of land-use agreements it has offered or will offer to landowners affected by the routing and construction of the Project.

Enbridge Gas stated that the Project is needed to accommodate the construction of the Scarborough Subway Extension Transit Project (Subway Extension project), which is being completed by Metrolinx in collaboration with the Province of Ontario and the City of Toronto.

Metrolinx has requested that Enbridge Gas temporarily relocate certain existing natural gas pipeline assets that are in conflict with the Subway Extension project. Metrolinx expects to complete the Subway Extension project in 2030 and has requested that Enbridge Gas permanently relocate those natural gas pipeline assets back onto the municipal right-of-way at that time. This proceeding only addresses Enbridge Gas's request for approval of the temporary relocation, as the details and scope of work for the permanent relocation are not known at this time.

Enbridge Gas stated that the Project construction will commence in August 2024 and the proposed pipelines are expected to be placed into service in September 2024. The general location of the Project is shown on the map in Schedule A to this Decision and Order.

For the reasons provided in this Decision and Order, the OEB grants Enbridge Gas's application for leave to construct the Project. The OEB finds that the Project is in the public interest based on an examination of the Project need, alternatives, cost and economics, environmental impacts, land use requirements, and Indigenous consultation.

The OEB also approves the forms of permanent easement and temporary working area agreements that Enbridge Gas has offered or will offer to landowners affected by this Project.

The leave to construct is subject to the OEB's conditions of approval, attached as Schedule B to this Decision and Order.

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## 2 PROCESS

The OEB held a written hearing to consider this application.

A Notice of Hearing was issued on December 1, 2023. Pollution Probe applied for intervenor status and cost eligibility. On January 26, 2024, the OEB issued Procedural Order No. 1, approving Pollution Probe as an intervenor and granting it cost eligibility, and setting a schedule for the filing of interrogatories and submissions.

In accordance with the procedural schedule, interrogatories by OEB staff and Pollution Probe were filed by February 9, 2024. Enbridge Gas responded to the interrogatories on February 26, 2024. OEB staff and intervenor written submissions were filed on March 18, 2024 and Enbridge Gas filed a reply submission on April 1, 2024.

On April 1, 2024, Enbridge Gas updated its evidence by filing a Letter of Opinion from the Ministry of Energy confirming that the procedural aspects of Indigenous consultation undertaken by Enbridge Gas to date for the purposes of the OEB's leave to construct for the Project are satisfactory.

### 3 DECISION

In its consideration of whether the Project is in the public interest, the OEB has been guided by the issues set out in the OEB's Standard Issues List for natural gas leave to construct applications, as follows:

1. Project Need
2. Project Alternatives
3. Project Cost and Economics
4. Environmental Impacts
5. Landowner Matters
6. Indigenous Consultation
7. Conditions of Approval

#### 3.1 Project Need

Enbridge Gas stated that the Project is required to address Metrolinx's request to temporarily relocate various existing natural gas assets that are in conflict with the construction of Metrolinx's Scarborough Subway Extension project and to ensure that Enbridge Gas is able to maintain the provision of safe and reliable natural gas services for its existing customers. The Project entails the relocation and construction of approximately 345 metres of natural gas pipelines. Enbridge Gas advised that upon completion of the Subway Extension project in 2030, Metrolinx has requested that Enbridge Gas permanently relocate those natural gas pipeline assets back onto the municipal right-of-way. This application is requesting approval of the temporary relocation only, as the details and scope of work for the permanent relocation are unknown at this time because they are dependent on Metrolinx finalizing construction activities and schedule for the Subway Extension project.<sup>1</sup>

In response to an interrogatory on whether the Project is intended to serve additional loads in this area either now or in the future, Enbridge Gas stated that, while the primary scope of the Project is to maintain service to meet the current demands of the existing customers on the system, growth is forecasted in the area of the Project and the current system has the capacity to support the growth.<sup>2</sup>

OEB staff submitted that there is a need for the Project, based on the evidence filed by Enbridge Gas. Pollution Probe challenged the need for the Project, arguing that the

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<sup>1</sup> Application, Exhibit A, Tab 2, Schedule 1, pp.1-2

<sup>2</sup> IRR, Exhibit I. STAFF.1

Project is not actually required to provide ongoing gas service to customers in the area, Pollution Probe noted that, while the only benefit of the Project would be the reduced potential risk related to bi-direction flow vs. one directional flow, Enbridge Gas's risk assessment categorizes the risks as low if the Project were not installed.<sup>3</sup> Pollution Probe submitted that building additional redundancy into the gas system also increases costs and the risk and magnitude of future stranded assets.

In its reply submission, Enbridge Gas submitted that Pollution Probe's submissions omit the medium operational risk associated with one directional flow in the Project area, therefore minimizing the risk level results stated in Enbridge Gas's risk assessment. Enbridge Gas emphasized that maintaining a dual feed mitigates potential customer loss (i.e., the Scarborough General Hospital) in the event of an outage due to third-party damage, resulting in a lower operational consequence than the single feed scenario. Enbridge submitted that it is prudent and practical to address the medium operational risk since the cost of the mitigation is being covered by Metrolinx and that, by addressing the medium operational risk, Enbridge Gas is able to maintain its level of service and operational risk level for customers in the Project area at no cost to ratepayers. Enbridge Gas submitted that, for these reasons, the Project is needed and is in the public interest.<sup>4</sup>

## Findings

The OEB finds that the Project is needed to accommodate the construction of the Subway Extension project which is being completed by Metrolinx in collaboration with the Province of Ontario and the City of Toronto. Certain portions of Enbridge Gas's existing pipelines would be in conflict with the Subway Extension project and need to be temporarily relocated. The Project is intended to resolve these conflicts while maintaining natural gas services to Enbridge Gas's existing customers. The Project does not entail the creation of any incremental natural gas capacity.

The OEB notes that one of the Project benefits is the mitigation of operational risks associated with maintaining the current bi-directional flow (dual feed) system compared to a one directional (single feed) system if the Project is not implemented.

The OEB finds that Pollution Probe has not provided sufficient evidence to support its argument that the proposed Project "will result in underutilized assets and greater amounts of stranded assets in the future."<sup>5</sup>

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<sup>3</sup> IRR, Exhibit I.Pollution Probe-4, Attachment 1.

<sup>4</sup> Reply submission, p. 5, para 9

<sup>5</sup> Pollution Probe submission, p.5

### 3.2 Project Alternatives

Enbridge Gas stated that it assessed facility/route alternatives and determined that the Project is the optimal solution to meeting the identified customer need as it:

- Is cost-effective compared to the alternatives considered
- Meets the required in-service date of September 2024
- Maintains existing network connections and reliability and enables Enbridge Gas to readily access its facilities to ensure safe operation and maintenance.

Enbridge Gas stated that it applied the Binary Screening Criteria contained in the Integrated Resource Planning (IRP) Framework<sup>6</sup> and concluded that the need for the Project does not warrant further IRP consideration based on the timing criteria, as the need must be met in under three years and is driven by a customer-specific build, where Metrolinx will pay for the Project costs through a Contribution in Aid of Construction (CIAC).

OEB staff submitted that based on Enbridge Gas's evidence, the Project is the best alternative to meet the stated need and that Enbridge Gas appropriately applied the Binary Screening Criteria contained in the IRP Framework to determine that the Project does not warrant further IRP consideration. OEB staff also submitted that there is no requirement for Enbridge Gas to consider IRP alternatives in this case.

Pollution Probe submitted that Enbridge Gas has not appropriately applied the Binary Screening Criteria, arguing that Metrolinx does not represent a customer per the contractual agreements with Enbridge Gas and therefore that IRP exception is not applicable. Pollution Probe also submitted that Enbridge Gas should not have applied the timing criterion to screen out this Project as Enbridge Gas was made aware of the Project more than three years ago and there was sufficient time for Enbridge Gas to consider more cost-effective long-term alternatives.<sup>7</sup>

In its reply submission, Enbridge Gas stated that while it was first made aware of the general location of potential Subway Extension project work in 2016, it was not provided sufficient detail to start to identify conflicts with its assets until November 2019. Enbridge Gas also stated that it was not provided sufficient information from Metrolinx to initiate work on preliminary asset relocation designs until 2020. Enbridge Gas submitted that it was not reasonably possible for it to commence work to assess any alternative, facility or non-facility (IRP), until Subway Extension project plans were sufficiently detailed and certain. Enbridge Gas submitted that it has advanced Project design and the current

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<sup>6</sup> [EB-2020-0091](#), Decision and Order, July 22, 2021, Appendix A

<sup>7</sup> Pollution Probe submission, p.6

application as efficiently as possible and the OEB should assign no weight to Pollution Probe's submissions regarding its application of the IRP Framework's Binary Screening Criteria for Timing.<sup>8</sup>

Enbridge Gas asserted that Pollution Probe's submissions that the Customer-Specific Build criteria is not applicable is an incorrect interpretation of the intent of the IRP Framework's Binary Screening Criteria. Enbridge Gas submitted that the IRP Framework does not constrain applicability of the Customer-Specific Build criteria in the manner suggested by Pollution Probe as Metrolinx has made a clear request for Enbridge Gas to relocate its existing facilities and has chosen to pay a CIAC for the full construction cost of the Project. Enbridge Gas submitted that the OEB should find that it has appropriately applied the IRP Binary Screening Criteria in relation to the Project.<sup>9</sup>

Pollution Probe argued that Enbridge Gas considered three pipeline options but did not include defaulting to a single feed system in its alternative assessment or in the alternative cost information request from OEB staff, and a single feed option would have avoided the Project costs related to the new proposed pipelines.<sup>10</sup> Enbridge Gas argued that this claim by Pollution Probe is inaccurate as Enbridge Gas has described a single feed system as Alternative 1, completed a risk assessment comparing a single feed scenario to a dual feed scenario, and provided the cost of Alternative 1 in its interrogatory response.<sup>11</sup>

Pollution Probe also stated that it is unclear why NPS 12 HP and NPS 8 IP pipelines were originally approved and installed when the smaller NPS 6 and NPS 4 (Alternative 3) are considered adequate, and that the overbuilding of the system (including for the longer term 2030 solution) will result in underutilized assets and greater amounts of stranded assets in the future.<sup>12</sup>

Enbridge Gas responded stating that the Project (Alternative 3) was sized based on the 345 metres of pipeline being installed in the midst of an existing pipeline network to address the Subway Extension project conflict and not to replace kilometres of the existing pipeline networks (NPS 12 HP and NPS 8 IP) currently serving thousands of customers. Enbridge Gas submitted that Pollution Probe's comments regarding the pipe size proposed for the Project to indicate that the existing network is overbuilt are a vast oversimplification and is not based on the results of any hydraulic modelling. Enbridge Gas submitted that the OEB should assign no weight to Pollution Probe's claim that the

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<sup>8</sup> Reply submission, p.10

<sup>9</sup> Reply submission, p.11

<sup>10</sup> Pollution Probe submission, p.6

<sup>11</sup> Reply submission, p. 8, para 17

<sup>12</sup> Pollution Probe submission, p.4,5



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natural gas system in the Project area is overbuilt and will result in underutilized assets as there is no factual basis or evidence on the record to support this claim.<sup>13</sup>

## Findings

The OEB finds that the Project is the best alternative to meet the stated need. Enbridge Gas evaluated three alternatives quantitatively and qualitatively based on a number of factors such as cost, schedule, system safety and reliability, and environmental and socio-economic impacts and determined that the proposed alternative is the best one.

The OEB also finds that the Project is excluded from IRP considerations because Metrolinx will pay all Project costs which, in the OEB's view, is within the intent of the findings made by the OEB in the IRP Framework decision regarding customer-specific builds where the customer fully pays for incremental infrastructure cost.

However, the OEB agrees with Pollution Probe that IRP considerations must be taken into account by Enbridge Gas once it becomes aware of the need for a project. In future similar applications, Enbridge Gas has to provide clear evidence as to when it became aware of the project and how IRP considerations were taken into account in evaluating project alternatives. This evidence will enable the OEB to assess whether an identified system need or constraint must be met in under three years.

## 3.3 Project Cost and Economics

In its application, Enbridge Gas stated that the total cost of the project is estimated to be \$3.35 million and that Metrolinx will reimburse Enbridge Gas through a CIAC for the project costs. In response to interrogatories, Enbridge Gas stated that the estimated total project cost for the Project has increased from \$3.35 million to \$3.55 million, because of additional ancillary costs related to a service relay to the Scarborough General Hospital that was previously not identified to Enbridge Gas as a conflict by Metrolinx prior to the filing of the application.

Enbridge Gas provided a breakdown of the Project costs:<sup>14</sup>

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<sup>13</sup> Reply submission, p. 9, para 18

<sup>14</sup> IRR, Exhibit I. STAFF.4, p.2

<u>Item No.</u>	<u>Description</u>	<u>Pipeline Costs</u>	<u>Ancillary Costs</u>	<u>Total</u>
1	Material	48,972	1,070	50,042
2	Labour and Construction	1,719,120	116,330	1,835,450
3	Outside Services (Consulting, Professional Services)	195,800	0	195,800
4	Contingency	490,973	29,350	520,323
5	Sub-Total	2,454,865	146,750	2,601,615
6	Interest During Construction	29,285	1,749	31,034
7	Direct Overheads	2,938	64	3,002
8	Indirect Overheads	859,203	51,363	910,566
9	Total Project Costs	3,346,291	199,926	3,546,217
10	Less: CIAC	(3,346,291)	(199,926)	(3,546,217)
11	Net Project Costs	0	0	0

Enbridge Gas confirmed that the CIAC will cover the actual final Project Costs in the event that they exceed estimated total Project costs. Enbridge Gas and Metrolinx's Subway Extension contractor (Metrolinx Contractor) have entered into a Utility Work Agreement (UWA). Under the UWA, the Metrolinx Contractor assumes full cost responsibility and will reimburse Enbridge Gas for all its actual costs and expenses incurred in completing the Project.<sup>15</sup> In its interrogatory responses, Enbridge Gas also confirmed that it has an agreement with Metrolinx and Metrolinx's Contractor to reimburse Enbridge Gas for the cost of the permanent relocation of the assets.<sup>16</sup>

In its interrogatories, OEB staff suggested a modification to Condition 6 of the OEB's standard conditions of approval. The modified condition would require Enbridge Gas to confirm that the actual final Project costs are fully funded by the CIAC paid to Enbridge Gas by Metrolinx.<sup>17</sup> In its interrogatory responses, Enbridge Gas agreed with this suggestion.

In its reply submission, Enbridge Gas stated that the evidence in this proceeding demonstrates that the Project costs are reasonable and will be paid in full by Metrolinx, and that the Project is economically justified.<sup>18</sup>

<sup>15</sup> Application, Exhibit B, Tab 1, Schedule 1, p.3

<sup>16</sup> IRR, Exhibit I.STAFF 4.b), p.2

<sup>17</sup> IRR, Exhibit I. STAFF.12

<sup>18</sup> Reply submission, p.12, para 29

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## Findings

Enbridge Gas stated that Metrolinx will pay for the total Project costs through a CIAC and that the Metrolinx Contractor will assume full cost responsibility, even if the actual costs exceed the estimated total Project costs, with no impact on ratepayers. This Decision and Order is conditional on Enbridge Gas filing a Post Construction Financial Report providing, among other things, confirmation that the actual final Project costs are fully funded by the CIAC payment from Metrolinx. This condition (modified Condition 6) is included in the OEB's conditions of approval attached as Schedule B to this Decision and Order.

### 3.4 Environmental Impacts

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

Enbridge Gas circulated the Environmental Report to members of the Ontario Pipeline Coordinating Committee, municipal officials, conservation authorities and potentially impacted Indigenous communities.

Enbridge Gas stated that a Cultural Heritage Report: Existing Conditions and Preliminary Impact Assessment (CHRECPIA) was completed and submitted to the Ministry of Citizenship and Multiculturalism (MCM) and that comments were received from the MCM. In response to interrogatories, Enbridge Gas stated that it updated the CHRECPIA to address the MCM's comments and re-submitted the CHRECPIA to the MCM for further review. Enbridge Gas stated that it expects to receive a response from the MCM following this additional review of the CHRECPIA prior to the commencement of Project construction.<sup>19</sup>

The application identified potential environmental/land permits and approvals from 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>20</sup>

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<sup>19</sup> IRR, Exhibit I. STAFF.8, p.5

<sup>20</sup> IRR, Exhibit I. STAFF.10, p.1,2

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Enbridge Gas stated that using the mitigation measures found within the Environmental Report, and other additional mitigation measures provided by regulatory agencies through the permitting and approval process, no significant environmental or cumulative effects are anticipated from construction of the proposed Project.

OEB staff stated that the OEB's conditions of approval require Enbridge Gas to obtain all necessary approvals, permits, licences, and certificates needed to construct, operate and maintain the Project. This includes a favourable response from MCM regarding the CHRECPIA.

OEB staff noted that Enbridge Gas completed the Environmental Report in accordance with the OEB's Environmental Guidelines.<sup>21</sup> OEB staff submitted that it 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 Environmental Report. OEB staff also submitted that Enbridge Gas's compliance with the OEB's conditions of approval will ensure that impacts of pipeline construction are mitigated and monitored.

Pollution Probe submitted that the direct and indirect socio-economic impacts of the Project will be high. Pollution Probe noted that disruption along the Metrolinx construction corridors is severe, as a result of the Project and other large projects impacting the same project area.<sup>22</sup>

Enbridge Gas responded to Pollution Probe's submissions, arguing that the OEB should assign no weight to Pollution Probe's claims regarding the purported socio-economic impacts of the Project and Subway Extension project, as it provided no evidentiary basis to support these claims.<sup>23</sup>

## Findings

The OEB finds that Enbridge Gas has completed the Environmental Report for this Project in accordance with the OEB's Environmental Guidelines. No significant environmental or cumulative effects are anticipated from construction of the proposed Project. The conditions of approval documented in Schedule B to this Decision and Order require Enbridge Gas to implement the mitigation measures set out in the Environmental Report prior to the start of construction. Furthermore, the conditions of

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<sup>21</sup> *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario, 7th Edition*

<sup>22</sup> Pollution Probe submission, p. 7

<sup>23</sup> Reply submission, p.14, para 33

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approval require Enbridge Gas to obtain all necessary approvals, permits, licences, and certificates needed to construct, operate and maintain the Project.

### 3.5 Landowner Matters

Enbridge Gas stated that the Project will be located primarily in the public road allowance with limited permanent easements and potential temporary working areas required to facilitate construction.

Pollution Probe submitted that municipalities have raised concerns with gas pipelines being abandoned in congested road rights-of-way, and that use of municipal rights-of-way should not be considered a free resource since it comes with real costs and impacts.<sup>24</sup> Enbridge Gas responded that the Project consists of work on the existing assets located in the road allowance and is required to avoid conflict with Metrolinx construction, and that the installation of the proposed pipelines is primarily on Metrolinx private property, for which easement agreements are actively being negotiated.<sup>25</sup>

With its application, Enbridge Gas filed forms of temporary working area and permanent easement agreements for the OEB's approval. Enbridge Gas stated that these agreements are the same as those approved for use in Enbridge Gas's Kennedy Station Relocation Project.<sup>26</sup>

OEB staff submitted that the OEB should approve the proposed forms of permanent easement and temporary working area agreements as both were previously approved by the OEB.

### Findings

The OEB approves the forms of permanent easement and temporary working area agreements proposed by Enbridge Gas. These forms have previously been approved by the OEB for similar projects.

### 3.6 Indigenous Consultation

In accordance with the OEB's Environmental Guidelines, Enbridge Gas provided the Ministry of Energy (MoE) with a Project description to determine if it triggers the Crown's duty to consult. MoE issued a letter, delegating the procedural aspects of the Crown's

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<sup>24</sup> Pollution Probe submission, p.5,6

<sup>25</sup> Reply submission, p.14, para 34

<sup>26</sup> EB-2022-0247, Decision and Order, May 9, 2023

duty to consult for the Project to Enbridge Gas. In the delegation letter, MoE identified the following eight Indigenous communities<sup>27</sup> that Enbridge Gas should consult in relation to the Project:

- Alderville First Nation
- Beausoleil First Nation
- Chippewas of Georgina Island First Nation
- Chippewas of Rama First Nation
- Curve Lake First Nation
- Hiawatha First Nation
- Mississaugas of Scugog Island First Nation
- Mississaugas of the Credit First Nation

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

As part of its application, Enbridge Gas filed an Indigenous Consultation Report and provided an update on its Indigenous consultation activities as of February 15, 2024.<sup>28</sup>

Enbridge Gas stated that it has not received comments identifying any Aboriginal or treaty rights that could be adversely impacted by the Project from the Indigenous communities. Enbridge Gas also stated that it will continue to engage with these communities throughout the life of the Project to ensure potential impacts on Aboriginal or treaty rights are addressed, as appropriate.<sup>29</sup>

OEB staff submitted that Enbridge Gas appears to have made efforts to engage with the potentially affected Indigenous groups identified by the MoE. OEB staff also submitted that no impacts to Aboriginal or treaty rights have been identified.<sup>30</sup>

On April 1, 2024, Enbridge Gas filed MoE's Letter of Opinion with the OEB. In that letter, MoE expressed its opinion that the procedural aspects of the consultation undertaken by Enbridge Gas to-date for the Project were satisfactory.

## Findings

Based on MoE's Letter of Opinion and the record of this proceeding, the OEB is satisfied that the duty to consult has been adequately addressed by Enbridge Gas.

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<sup>27</sup> Application, Exhibit H, Tab 1, Schedule 1, Attachment 2, p.2

<sup>28</sup> IRR, Exhibit I. STAFF.11 a)

<sup>29</sup> Evidence, Exhibit H, Tab 1, Schedule 1, p.3

<sup>30</sup> OEB staff submission, p.8

### 3.7 Conditions of Approval

As noted previously, the OEB has established standard conditions of approval for natural gas leave to construct applications.

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 Enbridge Gas to confirm that the actual final Project costs are fully funded by the CIAC paid to Enbridge Gas by Metrolinx. OEB staff also suggested minor modifications to Conditions 2(b) (ii) and (iv), 7(a), and 7(b) to better reflect the intent of those conditions in response to a letter from Enbridge Gas regarding a recently approved project. In interrogatory responses, Enbridge Gas stated that it agrees with the OEB staff's suggested modification to Condition 6 as well as the minor modifications to conditions 2(b) (ii) and (iv), 7(a), and 7(b).<sup>31</sup>

In its reply submission, Enbridge Gas confirmed that it will comply with the final conditions of approval established by the OEB and attached as Schedule B to this Decision and Order.<sup>32</sup>

#### Findings

This Decision and Order is subject to the updated conditions of approval attached as Schedule B.

### 3.8 Confidential Information

Enbridge Gas requested confidential treatment for what it claimed to be personal information contained in its interrogatory response, Exhibit I.STAFF.9, Attachment 1, stating that this information contains names and contact information of property owners and should not be disclosed in accordance with the *Freedom of Information and Protection of Privacy Act* (FIPPA). Enbridge Gas additionally stated, that pursuant to section 10 of the OEB's *Practice Direction on Confidential Filings*, such information should not be provided to parties to a proceeding.

#### Findings

The OEB finds that this information is personal information, as defined in FIPPA. This information shall remain redacted and shall not be provided to parties in the proceeding.

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<sup>31</sup> IRR, Exhibit I. STAFF.12 a)

<sup>32</sup> Reply submission, p.17, para 44

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## 4 ORDER

### THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Enbridge Gas Inc. is granted leave, pursuant to section 90(1) of the OEB Act, to construct the Project in the City of Toronto as described in its application.
2. Pursuant to section 97 of the OEB Act, the OEB approves the form of Easement Agreement and form of Temporary Working Area Agreement that Enbridge Gas Inc. has offered or will offer to each owner of land affected by the Project.
3. Leave to construct is subject to Enbridge Gas Inc. complying with the Conditions of Approval set out in Schedule B.
4. Pollution Probe shall file with the OEB and forward to Enbridge Gas Inc. its respective cost claim in accordance with the OEB's *Practice Direction on Cost Awards* on or before **April 25, 2024**.
5. Enbridge Gas Inc. shall file with the OEB and forward to Pollution Probe any objections to the claimed costs on or before **May 2, 2024**.
6. If Enbridge Gas Inc. objects to Pollution Probe's costs, Pollution Probe shall file with the OEB and forward to Enbridge Gas Inc. their responses, if any, to the objections to cost claims on or before **May 9, 2024**.
7. Enbridge Gas Inc. shall pay the OEB's costs incidental to this proceeding upon receipt of the OEB's invoice.

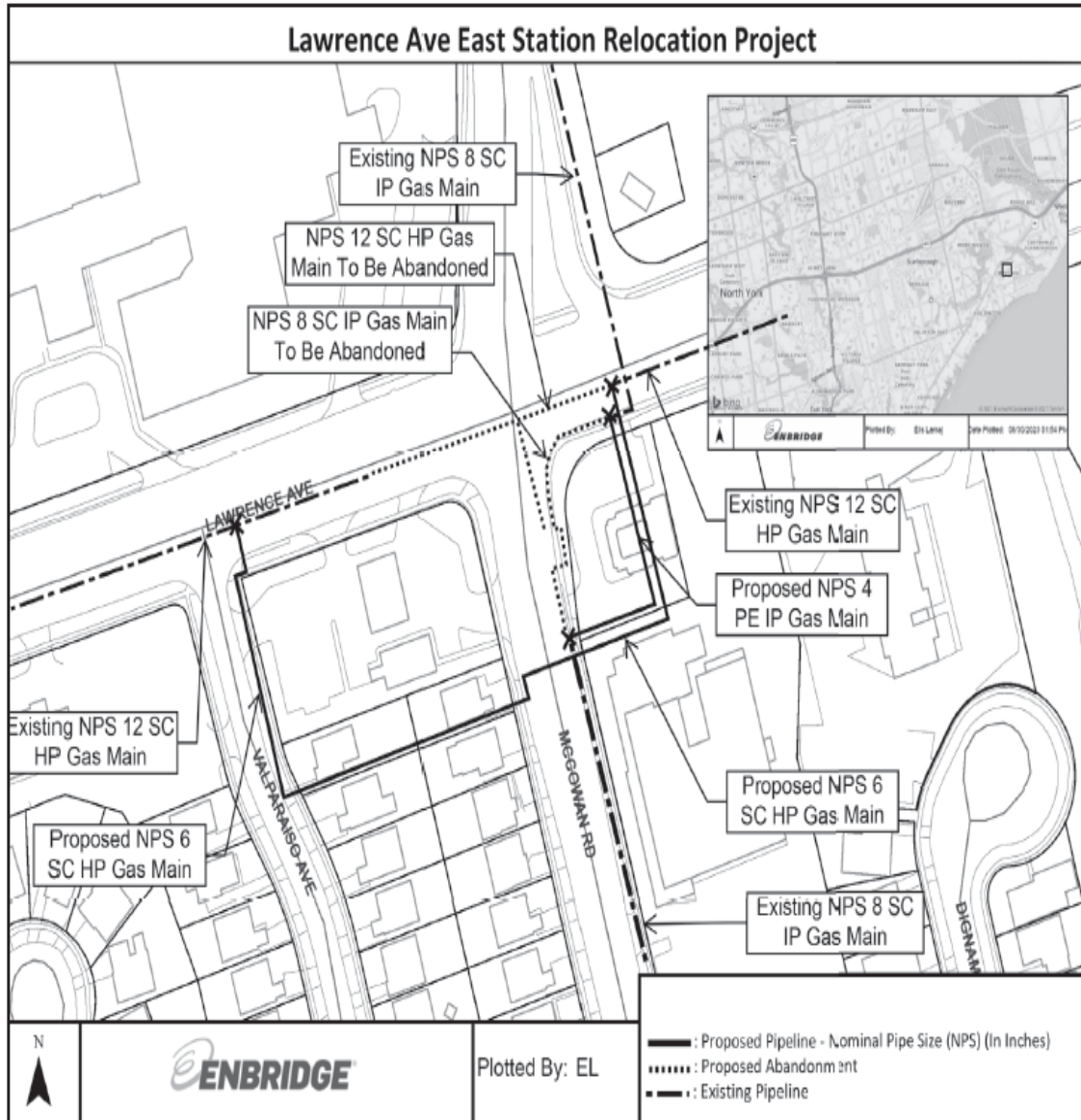
**DATED** at Toronto April 18, 2024

**ONTARIO ENERGY BOARD**

Nancy Marconi  
Registrar



**SCHEDULE A**  
**DECISION AND ORDER**  
**ENBRIDGE GAS INC.**  
**EB-2023-0260**  
**APRIL 18, 2024**



**SCHEDULE B**  
**DECISION AND ORDER**  
**ENBRIDGE GAS INC.**  
**EB-2023-0260**  
**APRIL 18, 2024**

**Leave to Construct Application under  
Section 90 of the OEB Act****Enbridge Gas Inc.  
EB-2023-0260****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-2023-0260 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 start date, at least 10 days prior to the date the facilities begin to 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 full project in-service date, no later than 10 days after all 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 contribution

in aid of construction payment from Metrolinx.

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 full project 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 full project 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.