



# **DECISION ON TECHNICAL CONFERENCE AND INTERVENOR EVIDENCE, AND PROCEDURAL ORDER NO. 4**

## **EB-2023-0343**

### **ENBRIDGE GAS INC.**

**Application for leave to construct natural gas pipeline and  
associated facilities in the Town of East Gwillimbury with  
potential pipeline sections in the Township of King, Town of  
Georgina, and Town of Whitchurch-Stouffville**

**BEFORE:**     **Robert Dodds**  
                 Presiding Commissioner

**Michael Janigan**  
Commissioner

**David Sword**  
Commissioner

---

**January 13, 2025**

# 1 OVERVIEW

On November 28, 2023, Enbridge Gas Inc. (Enbridge Gas) applied to the Ontario Energy Board (OEB) under sections 90 and 97 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), for an order granting leave to construct approximately 37.3 kilometres of natural gas pipeline in the Town of East Gwillimbury with potential pipeline sections in the Township of King, Town of Georgina, and Town of Whitchurch-Stouffville (Application). The proposed pipeline will supply natural gas to approximately 369 new customers who currently do not have access to natural gas services. Enbridge Gas also applied to the OEB for approval of the form of land-use agreements it offers to landowners affected by the routing and construction of the project.

The project was selected to be eligible to receive funding assistance as part of Phase 2 of the Government of Ontario's Natural Gas Expansion Program (NGEP), which provides financial support to help utilities expand natural gas distribution into communities that are not currently connected to the natural gas system.

During the course of this proceeding Environmental Defence (ED) made several requests including:

- a request to file heat pump evidence about factors impacting consumer decisions to connect and remain connected to the natural gas system, including relative cost-effectiveness and benefits of heat pumps versus natural gas
- a request to file community survey evidence (commissioned by Environmental Defence) that would correct deficiencies and test the survey and customer connection forecast evidence submitted by Enbridge Gas
- a request to file factual evidence regarding past and future efforts of local community members to inform gas expansion area residents about the downsides of connecting to natural gas and the benefits of alternatives
- a request for a technical conference to seek further information regarding the Normalized [System] Reinforcement Costs (NSRC) by Enbridge Gas
- in the alternative to a technical conference, a request (and motion under Rule 27 of the OEB's *Rules of Practice and Procedure*, referred to here as the Rules) for full and adequate interrogatory responses to certain interrogatories posed by Environmental Defence to Enbridge Gas

The OEB solicited comments from parties on the proposed evidence requests. Pollution Probe supported ED's initial evidence proposals relating to the survey and heat pump evidence. OEB staff and Enbridge Gas submitted that ED's evidence should be denied, and similarly submitted that further discovery is not required through a technical conference.

For the reasons that follow, the OEB denies ED's requests to submit intervenor evidence; the request for a technical conference; and the motion related to Enbridge Gas's interrogatory responses.

## 2 PROCESS

On November 28, 2023, Enbridge Gas filed an application for leave to construct 37.3 kilometres of natural gas pipeline in the Town of East Gwillimbury with potential pipeline sections in the Township of King, Town of Georgina, and Town of Whitchurch-Stouffville. The OEB issued a Notice of Hearing on January 11, 2024.

ED, Federation of Rental-housing Providers of Ontario (FRPO) and Pollution Probe applied for intervenor status and cost eligibility and were approved as intervenors. In its letter of intervention, ED stated that it wished to file evidence in this proceeding and an opportunity to provide a description and cost estimate.

In Procedural Order No. 1, issued March 1, 2024, the OEB provided a process for ED to file a letter with a full description and cost estimate of the evidence. The OEB also provided OEB staff, intervenors and Enbridge Gas an opportunity to file submissions on ED's letter and for ED to reply to the submissions. The OEB also provided for interrogatories on Enbridge Gas's Application and responses to the interrogatories.

On March 8, 2024, ED filed a letter with a description and cost estimate of the proposed evidence, relating to surveys and heat pumps. By March 15, 2024, OEB staff, Pollution Probe and Enbridge Gas filed submissions on ED's proposed evidence. ED filed a response to these submissions on March 22, 2024.

OEB staff and intervenors filed interrogatories by March 19, 2024. On April 3, 2024, Enbridge Gas filed a letter advising that it was not in a position to proceed with the filing of its interrogatory responses and requested that the Application be put into abeyance. Enbridge Gas explained that its evidence needed to be updated due to the omission of a section of pipeline from the Environmental Report (ER) that was included in the pre-filed evidence. Enbridge Gas advised that there would likely be a need to amend the evidentiary record in advance of the completion of the interrogatory phase of the proceeding.

On April 4, 2024, the OEB issued Procedural Order No. 2 granting Enbridge Gas's request by placing the Application into abeyance. The OEB expected Enbridge Gas to provide its update by June 21, 2024. The OEB also cancelled the remaining procedural steps in Procedural Order No. 1.

On April 20, 2024, ED filed a letter requesting that the OEB issue a decision on its request to submit evidence while the proceeding is in abeyance. ED also requested to file what it described as factual evidence on the past and anticipated efforts of community members to inform gas expansion area residents about the downsides of

connecting to the gas system and the benefits of alternatives (Community Advocacy Evidence).

On May 21, 2024, Enbridge Gas filed a letter replying to ED's April 20, 2024 letter, stating that the OEB should deny ED's initial request for the filing of survey and heat pump evidence and ED's latest additional request to include the Community Advocacy Evidence.

On June 14, 2024, Enbridge Gas filed a letter requesting that the OEB continue to hold the Application in abeyance until August 30, 2024, to allow for sufficient time for the Ontario Pipeline Coordination Committee (OPCC) to review and comment on the draft ER Addendum, and for Enbridge Gas to incorporate the OPCC comments and prepare updated evidence.

By letter dated June 19, 2024, the OEB agreed to extend the abeyance period until August 30, 2024.

On August 30, 2024, Enbridge Gas filed its updated Application. The updates to the application included, *inter alia*, a reduction in the customer forecast from 369 customers to 263, a reduction in the total pipeline length from 37.3 km to 36.5 km, and a reduction in the total capital cost from \$14.7 million to \$13.0 million.

On September 20, 2024, the OEB issued Procedural Order No. 3 setting out a process that included interrogatories on the updated evidence; responses to all interrogatories filed in the proceeding (pursuant to both Procedural Order No. 1 and No. 3); and submissions on the need for a technical conference.

Additional interrogatories were filed by OEB staff and by intervenors by October 8, 2024. Enbridge Gas filed its interrogatory responses on October 22, 2024.

ED and OEB staff filed comments on the need for a technical conference by November 5, 2024.

ED requested that a technical conference be held, or alternatively, that the OEB order Enbridge Gas to provide full and adequate responses to interrogatories relating to NSRC and other matters identified in its letter of November 5, 2024, and to one follow-up question. ED stated that this alternative request constitutes a motion under Rule 27.

OEB staff submitted that, upon review of the existing interrogatory responses on the record, further discovery through a technical conference is not required.

On November 19, 2024, Enbridge Gas submitted that a technical conference is not required and that ED's additional interrogatories pertaining to NSRC had been answered fully by Enbridge Gas. Enbridge Gas submitted that the next step of the proceeding should be the filing of submissions.

### 3 DECISION

The OEB has reviewed the requests, responses, comments and submissions provided by OEB staff, intervenors, and Enbridge Gas. This Decision addresses the following matters:

- ED's requests to file heat pump evidence, survey evidence, and Community Advocacy Evidence
- ED's request for a technical conference
- ED's motion for full and adequate interrogatory responses

#### 3.1 Environmental Defence's Evidence Request

ED's letter of March 8, 2024 included a description and cost estimate of heat pump and survey evidence that it proposed to file in this proceeding. In the letter, ED stated that this proposed evidence is similar to the evidence that it proposed to file in the Bobcaygeon, Eganville, Sandford, and Neustadt proceedings (referred to collectively as the 2024 NGEPP Proceedings).<sup>1</sup>

ED's initial evidence requests sought approval to file evidence of Dr. Heather McDiarmid regarding factors that will impact consumer decisions to connect and remain connected to the natural gas system, including the relative cost-effectiveness and benefits of heating with electric heat pumps versus natural gas. In addition, ED sought approval to submit the results of a community survey that it proposed to commission through a public opinion research firm. As explained, this evidence would be brought forward to test the survey and customer connection forecast evidence submitted by Enbridge Gas.

ED stated that the survey evidence is required based on the deficiencies in the surveys conducted by Enbridge Gas, which ED alleges are "biased and unreliable".<sup>2</sup> ED explained that the survey completed by Enbridge Gas failed to provide key information (such as federal government rebates and loans, reduced heating and cooling costs and reduced greenhouse gases) before asking customers whether they were likely to connect to the gas system.

---

<sup>1</sup> EB-2022-0111 (Bobcaygeon Community Expansion Proceeding), EB-2023-0200 (Sandford Community Expansion Proceeding), EB-2023-0201 (Eganville Community Expansion Proceeding), and EB-2023-0261 (Neustadt Community Expansion Proceeding) [2024 NGEPP Proceedings].

<sup>2</sup> ED Letter, March 8, 2024, p. 2.

In its March 14, 2024 letter, Pollution Probe supported ED's request to file the proposed heat pump and survey evidence, stating that this evidence relates directly to issues in scope for this proceeding, such as project economics, attachment forecast, and alternatives. Pollution Probe further stated that there was insufficient information in the application to objectively indicate to the OEB what likely energy and equipment choices will be made by consumers and businesses in the East Gwillimbury community. Pollution Probe also submitted that an over-estimation of natural gas connections would provide an inaccurate analysis for the assessment of the project and could increase ratepayer risk relating to project economics and stranded assets.<sup>3</sup>

OEB staff submitted that ED's proposed evidence appears to be the same evidence that the OEB denied in the 2024 NGEP Proceedings, and that it should be denied for the same reasons in this proceeding.<sup>4</sup>

Enbridge Gas noted the pattern of attempts by ED to bring evidence regarding natural gas alternatives within NGEP proceedings (i.e., the 2024 NGEP Proceedings) and submitted that the ED evidence requests should be denied. Enbridge Gas pointed to the additional duration, cost, and ratepayer impact that ED causes by seeking to adduce evidence of the kind proposed in NGEP proceedings.

Enbridge Gas noted that this is the fourth iteration of heat pump-related evidence and subsequent survey evidence that ED has sought to file in the NGEP-funded project proceedings. Enbridge Gas further noted that the OEB denied the previous three iterations of ED's request.<sup>5</sup>

In particular, Enbridge Gas pointed to the OEB's decision on a review motion in another set of NGEP proceedings<sup>6</sup> (referred to collectively as the 2023 NGEP Review Proceedings) in which the OEB affirmed its decision in to deny similar evidence by ED in the underlying proceedings (referred to collectively as the 2023 NGEP Proceedings).<sup>7</sup>

On March 22, 2024, ED filed its reply submission and further defended its evidence requests, pointing to its filing of a motion to review the OEB's decision to reject its evidence in the 2024 NGEP Proceedings.

---

<sup>3</sup> Pollution Probe's Submission on ED's Proposed Evidence, March 14, 2024, p. 2.

<sup>4</sup> OEB staff Letter, March 15, p. 2; On February 20 and 29, 2024 the OEB denied ED's survey evidence request within each of the four 2024 NGEP Proceedings.

<sup>5</sup> Enbridge Gas letter, March 15, 2024, p. 3.

<sup>6</sup> EB-2023-0313, Decision on Motion to Review and Vary OEB Decisions in EB-2022-0156/EB-2022-0248/EB-2022-0249, December 13, 2023 [2023 NGEP Review Proceedings].

<sup>7</sup> EB-2022-0156/EB-2022-0248/EB-2022-0249, Final Decisions [2023 NGEP Proceedings].



On April 20, 2024, ED filed a letter in the current proceeding requesting that the OEB issue a decision on its request to submit evidence while the proceeding is in abeyance. ED added that if it is granted its request to submit evidence, it would also submit factual (non-expert) evidence on past and anticipated efforts of local community members to inform gas expansion area residents about the potential downsides of connecting to the gas system and the benefits of the alternatives (the Community Advocacy Evidence referred to above).

On May 21, 2024, Enbridge Gas filed a letter reiterating its position that the OEB deny ED's request. Enbridge Gas submitted that the new evidence would have limited value as it would be anecdotal in nature and not reflective of any objective or scientific assessment of the attachment forecast. Enbridge Gas alleged that the Community Advocacy Evidence includes biased and misleading information that has been distributed to the East Gwillimbury residents.

### Related OEB Decisions

The OEB notes that ED has previously sought to file similar heat pump evidence in seven other NGEPP proceedings, and survey evidence in four of those proceedings, and that ED's requests were denied in each case.

On February 20, 2024, and February 29, 2024, the OEB issued decisions that denied ED's request to file heat pump evidence and survey evidence in the 2024 NGEPP Proceedings.<sup>8</sup> In its decisions, the OEB referred to the 2023 NGEPP Proceedings in which ED sought to file evidence (which the OEB also denied). In dismissing the heat pump evidence, the OEB noted that:

These [Bobcaygeon et al.] applications do not involve the OEB making a choice between the approval of, or recommending, the use of heat pumps instead of an expansion of natural gas facilities in serving the relevant communities. Rather, the OEB must determine whether the public interest will be met by an approval of leave to construct for the NGEPP-funded project. The principal evidence for this is derived from the legislation

---

<sup>8</sup> EB-2022-0111, Decision on Intervenor Evidence, Consolidation of Natural Gas Expansion Program Related Proceedings, Technical Conference, Confidentiality and Procedural Order No. 2, February 20, 2024 and EB-2023-0200/ EB-2023-0201/ EB-2023-0261, Decision on Intervenor Evidence, Consolidation of Natural Gas Expansion Program-related Proceedings, Technical Conference and Procedural Order No.2, February 29, 2024.

establishing the program and approving a commitment of funding the project through a selection process.<sup>9</sup>

Further, in dismissing the survey evidence proposed by ED in the 2024 NGEPP Proceeding, the OEB found, among other things, that:

[T]he proposed survey evidence is not likely to provide information that could support a definitive conclusion that the project does not meet the requisite goals established in legislation and/or is uneconomic and contrary to the public interest.<sup>10</sup>

In the 2023 NGEPP Proceedings, the OEB denied a similar request by ED to file heat pump evidence in the decision on intervenor evidence in those cases. There, the OEB relied on the purpose of the NGEPP and its provision of funding for projects to connect previously unserved communities to natural gas service that would otherwise be uneconomic. The OEB noted the availability of NGEPP funding as “an important consideration in the determination of the public interest in providing the availability of natural gas service in unserved communities.”<sup>11</sup> The OEB similarly noted that the applications did not involve making a choice between natural gas and natural gas alternatives such as heat pumps.<sup>12</sup>

On September 21, 2023, the OEB issued its final decisions in the 2023 NGEPP Proceedings. There, the OEB noted that the approval of the applications does not restrict customers from obtaining heat pumps either before or after an extension of natural gas service to the affected communities. The OEB acknowledged the potential benefits that heat pumps may afford customers and identified heat pump uptake as a potential risk to project viability. However, the OEB concluded that there were several financial and non-financial considerations influencing a customer’s decision to opt for natural gas service and referenced letters of support from the target communities and the market surveys, as reflecting the expressed preferences of people in these communities.

In addressing the broader issue of ratepayer risk that ED alleged could materialize as a result of the denial of its evidence, the OEB noted that:

---

<sup>9</sup> EB-2022-0111, Decision on Intervenor Evidence, February 20, 2024, p.24.

<sup>10</sup> *Ibid.*, p. 19.

<sup>11</sup> EB-2022-0156/EB-2022-0248/EB-2022-0249, Decision on Intervenor Evidence and Confidentiality, April 17, 2023, p. 4.

<sup>12</sup> *Ibid.*, p. 4.

There is a reasonable expectation that such customers will not be called upon to provide a further subsidy to compensate for post-Rate Stability Period revenue shortfalls. As previously stated, the OEB's Decision in this proceeding is in keeping with the existing legislation and the OEB's own policies and decisions for implementation.<sup>13</sup>

The OEB's final decisions in the 2023 NGEP Proceedings became the subject of a Motion to Review brought by ED (2023 NGEP Review Proceeding). In its decision on the 2023 NGEP Review Proceeding, the OEB ultimately upheld its decision to reject ED's initial evidence in the underlying 2023 NGEP Proceedings. In doing so, the OEB found, in part, that:

The [OEB's decision in the 2023 NGEP Proceedings] demonstrate that the original panel was alive to Environmental Defence's concerns about Enbridge Gas's customer attachment forecast. Despite not being allowed to file the evidence it wanted to, Environmental Defence was able to elicit and test Enbridge Gas's evidence through interrogatories and to critique Enbridge Gas's evidence in its final submission.<sup>14</sup>

Environmental Defence has filed a review motion on the 2024 NGEP Proceedings with respect to its proposed heat pump (and survey) evidence. The OEB's decision on that motion is currently pending.

## Findings

### Heat Pump Evidence

The OEB has repeatedly denied Environmental Defence's requests to file heat pump evidence in similar proceedings including the 2023 NGEP Proceedings and the 2024 NGEP Proceedings. The OEB has also upheld its decision to reject such evidence in the 2023 NGEP Review Proceeding.

The OEB denies ED's request to file its proposed heat pump evidence in the current East Gwillimbury proceeding for the same reasons set out in those decisions. Consistent with its findings in the decision on intervenor evidence for the 2024 NGEP Proceeding, the OEB provides a number of additional comments below.

---

<sup>13</sup> EB-2022-0156, Final Decision, pp. 20-21; EB-2022-0248, Final Decision, p. 21; EB-2022-0249, Final Decision, p. 20.

<sup>14</sup> EB-2023-0313, Decision on Motion to Review and Vary OEB Decisions in EB-2022-0156/EB-2022-0248/EB-2022-0249, p.15.

The availability of NGEF funding is an important consideration in the determination of the public interest in providing the availability of natural gas service in unserved communities. The NGEF funded projects are not subject to the OEB's Integrated Resource Planning (IRP) Framework requirement that IRP alternatives to the expansion of natural gas distribution be explored when a utility applies for leave to construct an NGEF funded project.<sup>15</sup>

These applications do not involve the OEB making a choice between the approval of, or recommending, the use of heat pumps instead of an expansion of natural gas facilities in serving the relevant communities. Rather, the OEB must determine whether the public interest will be met by an approval of leave to construct for the NGEF-funded project. The principal evidence for this is derived from the legislation establishing the program and approving a commitment of funding the project through a selection process. Further confirmation of project need has been presented by survey and municipality representation favouring expansion of natural gas service.

The OEB notes the difficulty of establishing a sufficient record to challenge whether the carrying out of the legislatively established program is in accordance with customer need and customer interest in the acquisition of natural gas service. As noted in the OEB's determinations in the 2023 NGEF Proceedings<sup>16</sup>, the decision of individual consumers to opt for natural gas service is based on both financial and non-financial considerations (e.g., future commodity prices, familiarity, and reliability). The OEB is of the view that this applies also to the customer's decision to remain connected to the natural gas system. The non-survey based evidence proposed by ED would seek to establish that there is an available solution to the community's energy needs that is superior to that enabled by the NGEF.

In other NGEF proceedings, the OEB has been resistant to potentially jettisoning the background and framework of the implementation of the NGEF program, as well as its own IRP provisions, on the basis that there may be evidence of potential superior performance of heat pumps that might sideline natural gas as an energy provider.<sup>17</sup>

The validity of similar OEB conclusions in the 2023 NGEF Proceedings referenced earlier in this Decision has been subject to review by an OEB review panel in accordance with the OEB's Rules. ED brought a motion under Rule 40.01 to review and reverse the OEB's decisions to not admit heat pump evidence from ED in previous

---

<sup>15</sup> EB-2020-0091, OEB's Integrated Resource Planning (IRP) Framework pp. 10, 48.

<sup>16</sup> EB-2022-0156, Final Decision, p. 20; EB-2022-0248, Final Decision, p. 20; EB-2022-0249, Final Decision, p. 19.

<sup>17</sup> EB-2022-0111, Decision on Intervenor Evidence February 20, 2024, p. 15.

NGEP project proceedings, alleging a breach of procedural fairness.<sup>18</sup> This evidence was primarily to be based on the efficacy and economics of heat pumps. In its Motion, ED also challenged the OEB's decision to approve the projects, arguing that they were tainted by the refusal to allow the evidence and pointing to certain other alleged legal errors. On December 13, 2023, the OEB made its determinations in the 2023 NGEP Review Proceeding and upheld its findings from the 2023 NGEP Proceedings. As noted previously, a decision on a review motion in the 2024 NGEP Proceedings is pending.

### Survey Evidence

The OEB denies ED's request to file community survey evidence as part of this proceeding. Consistent with its findings in its decision on intervenor evidence in the 2024 NGEP Proceedings<sup>19</sup>, the OEB has provided a number of additional comments below.

Similar to the request to submit evidence to support the heat pump evidence discussed above, the consideration of ED's request to submit community survey evidence to ascertain the economic impact and potential take up of electric heat pumps necessitates a review of the pertinent aspects of the NGEP, and the OEB response and implementation of the same to date.

The program is grounded in legislation incorporated into the OEB Act as section 36.2 and implemented through the proclamation of O. Reg 24/19. The latter regulation provided for collection of program funds from all rate-regulated natural gas customers, the administration of the funds by the Independent Electricity System Operator and the selection of projects and allowable amounts for contribution to the project capital expenditures, similar to that of a contribution in aid of construction.

The OEB in its IRP Framework report exempted Enbridge Gas from the necessity to explore IRP alternatives to expansion of the distribution of natural gas when bringing forward leave to construct applications based on NGEP program funds.<sup>20</sup>

---

<sup>18</sup> EB-2023-0313, Decision on Motion to Review and Vary OEB Decisions in EB-2022-0156/EB-2022-0248/EB-2022-0249.

<sup>19</sup> EB-2022-0111, Decision on Intervenor Evidence, Consolidation of Natural Gas Expansion Program Related Proceedings, Technical Conference, Confidentiality and Procedural Order No. 2, February 20, 2024 and EB-2023-0200/ EB-2023-0201/ EB-2023-0261, Decision on Intervenor Evidence, Consolidation of Natural Gas Expansion Program-related Proceedings, Technical Conference and Procedural Order No.2, February 29, 2024.

<sup>20</sup> EB-2020-0091, OEB's Integrated Resource Planning (IRP) Framework pp.10, 48.

Enbridge Gas has brought forward evidence of customer willingness in the target community to take up natural gas service in accordance with the NGEF program that will also require a System Expansion Surcharge payment from customers for a forty-year period as long as gas is received.<sup>21</sup>

ED has requested approval to conduct its own survey of customers to determine whether heat pumps would be a better option for customers with a resultant impact on the financial viability of the proposed Enbridge Gas project.

The OEB in this proceeding agrees with the potential advantages of heat pumps as discussed in the 2023 NGEF Proceedings, and this was acknowledged in the 2023 NGEF Review Proceeding:

The OEB notes that the evidence and submissions in this proceeding have dealt extensively with the potential installation of electric heat pumps in terms of potential customer cost savings and their possible adoption by the communities to be served by Enbridge Gas. Such take-up might occur either before or after the extension of natural gas service to the communities. In turn, the effect of such take-up is addressed as a potential risk to project viability. The OEB has itself recognized the potential customer energy savings associated with the installation of such heat pumps and their favourable impact on lowering the consumption of natural gas. The OEB notes that its decision regarding Enbridge Gas's DSM program makes Enbridge Gas, in cooperation with the federal government's Greener Homes Initiative, the principal delivery agent for the incentivized installation of heat pumps.<sup>22</sup>

A survey involving potential take-up of heat pumps would presumably provide some background information to participants on costs and savings in comparison to other forms of energy. The survey results could support a request that Enbridge Gas's application not be approved, and customers have to resort to a presumably more environmentally friendly choice with a different cost structure.

The OEB is aware that background information (i.e., the survey script) accompanying survey questions can influence the results and the interpretation of the same. The content of information that has been distributed promoting the benefits of receipt of natural gas service has already been a subject of controversy associated with a

---

<sup>21</sup> EB-2023-0343 Application, Exhibit E, Tab 1, Schedule 1, page 3 of 5 (PDF p. 54).

<sup>22</sup> EB-2022-0156, Final Decision, p. 19; EB-2022-0248, Final Decision, pp. 19,20; EB-2022-0249, Final Decision, p. 18.

complaint made by ED and other organizations to the Competition Bureau and an ongoing investigation of whether misleading advertising has taken place.<sup>23</sup> Without commenting in any way on the validity of such complaints, the OEB notes that an evaluation of the market for take-up of natural gas service as opposed to heat pumps might also involve adjudication of the validity of the survey and/or pre-distributed information.

As with other NGEF proceedings, the OEB finds that the determinative value of an additional survey is minimal. ED has provided its opinion on the alleged deficiencies in the Enbridge Gas survey and survey script in the current proceeding. However, notwithstanding the additional detail provided by ED, the OEB finds that an adjudication of such matters may not result in a definitive conclusion that the project does not meet the requisite goals established in legislation and/or is uneconomic and contrary to the public interest. As well, as noted in the 2023 NGEF Proceedings, the OEB agrees with Enbridge Gas that the decision of individual consumers to opt for natural gas service is based on both financial and non-financial considerations (e.g., future commodity prices, familiarity and reliability) which further diminishes the comparison value of another community survey.<sup>24</sup>

However, it is important to note that in the 2023 NGEF Proceedings and the 2024 NGEF Proceedings, the OEB stated:

The approval of the Leave to Construct requested in this application does not restrict customers in this community from obtaining heat pumps either before or after an extension of natural gas service to these communities. Nor does it remove Enbridge Gas's DSM program responsibilities in this community.<sup>25</sup>

While issues associated with potentially improper representations may be resolved in another forum, the OEB is of the view that the case for an alternative to natural gas service should primarily be a marketplace issue.

However, Enbridge Gas's responsibility for any failure to assess the long-term financial viability of a project does not end with completion of construction and its initial use. The NGEF program is based on legislation that allowed a subsidy from all natural gas

---

<sup>23</sup> See attachment to ED Letter, March 8, 2024, re Enbridge Gas Deceptive Marketing Practices.

<sup>24</sup> EB-2022-0156, Final Decision, p. 20; EB-2022-0248, Final Decision, p. 20; EB-2022-0249, Final Decision, p. 19.

<sup>25</sup> EB-2022-0156, Final Decision, p. 19; EB-2022-0248, Final Decision, p. 20; EB-2022-0249, Final Decision, pp. 18, 19; EB-2022-0111, Final Decision, p. 24.

customers to help fund the expansion of natural gas service to communities that lacked sufficient numbers of potential customers providing the revenue to justify such extension. As the OEB has previously noted:

Traditional utility regulatory principles provide that costs should be allocated proportionately to customers that have caused the costs to occur. This is reflected in the OEB's decision in the OEB's Generic Proceeding on Community Expansion and, more specifically in the rejection of a proposed approach that would result in existing customers subsidizing an uneconomic community expansion.<sup>26</sup>

Given the unusual imposition of a project subsidy from all rate regulated natural gas customers, and the significant inability of these projects to attain a Profitability Index (PI) of 1 required to justify their undertaking in the absence of a subsidy, the OEB must assume that any potential shortfalls in the take-up and continuance of natural gas service have been carefully considered by Enbridge Gas in accordance with its responsibilities as a public utility invested with a franchise.

As noted above, the OEB stated in the 2023 NGEP Proceedings and the 2024 NGEP Proceedings that there is no guarantee of total cost recovery in the event of a shortfall of revenue in the first rebasing following the expiration of the Rate Stability Period (RSP) and that there is a reasonable expectation that Enbridge Gas customers will not be called upon to provide a further subsidy to compensate for post-RSP revenue shortfalls.

The OEB is of the view that challenges to the scope or validity of the measurement of potential customer take-up by natural gas service in these communities are best addressed by the marketplace and its reasonable expectations of the insulation of all Enbridge Gas customers from further subsidy than that accompanying any project approval.<sup>27</sup>

The OEB is of the view that the proposed survey evidence is not likely to provide information that could support a definitive conclusion that the project does not meet the

---

<sup>26</sup> EB-2022-0111, Decision on Intervenor Evidence, p. 18, citing EB-2022-0156, EB-2022-0248, EB-2022-0249 Final Decisions, p. 12.

<sup>27</sup> Based on Enbridge Gas's estimate of customers likely to take up gas service, existing natural gas customers will have contributed approximately \$32,000 per customer served by the East Gwillimbury community expansion project to assist in the expansion of gas in this community. This figure is based on: (a) the updated customer forecast of 263 – Updated Application, August 30, 2024, Ex A, Tab 2, Sch 1, p. 3; and (b) NGEP funding of \$8,373,365 – EB-2023-0343, Updated Application, August 30, 2024, Ex E, Tab 1, Sch 1, p. 3.



requisite goals established in legislation and/or is uneconomic and contrary to the public interest. The OEB further finds that there are potential protections to the public interest including the community's continued unimpeded access to heat pumps, the RSP, and the OEB's expectations concerning project financial results upon rebasing, the efficacy of which may be addressed in final arguments.

Accordingly, the OEB denies the ED request to file community survey evidence.

#### Community Advocacy Evidence

The OEB denies ED's request to file the Community Advocacy Evidence. ED stated that this is factual evidence and would not require additional expert witness costs. Enbridge Gas alleged that the Community Advocacy Evidence is biased and misleading.

The OEB reiterates that the current proceeding is not the proper forum for a decision that considers the relative merits between natural gas and natural gas alternatives. The OEB's decision in the current proceeding concerns the construction of a natural gas project that is subject to NGEP funding. The proposed Community Advocacy Evidence is arguably a less rigorous form of the proposed survey evidence which aims to accomplish a similar objective – that is, calling into question Enbridge Gas's customer attachment forecasts. In this instance, however, it appears that the evidence would not be based on any survey methodology, but instead would represent the result of efforts to dissuade potential gas customers from connecting to the expansion.

Many of the same reasons for denying the survey evidence also apply directly to the OEB's denial of the Community Advocacy Evidence, as does the OEB's conclusion in denying the survey evidence. As with the survey evidence, the OEB is of the view that the proposed Community Advocacy Evidence is not likely to provide information that could support a definitive conclusion that the project does not meet the requisite goals established in legislation and/or is uneconomic and contrary to the public interest. There are potential protections to the public interest including the community's continued unimpeded access to heat pumps, the RSP, and the OEB's expectations concerning project financial results upon rebasing, the efficacy of which may be addressed in final arguments.

Accordingly, the OEB denies the ED request to submit Community Advocacy Evidence.

### **3.2 Technical Conference Request and Interrogatory Motion**

ED requested that a technical conference be held, or alternatively, that Enbridge Gas be ordered to answer the interrogatories and follow-up question set out in ED's letter of

November 5, 2024. ED presented this alternative relief as a motion for full and adequate responses under Rule 27. ED contended that the interrogatories posed to Enbridge Gas were either incomplete or insufficiently answered. The specific requests are disclosed in ED's letter of November 5, 2024.

OEB staff commented that a technical conference is not required.

Enbridge Gas submitted that a technical conference is not required and that ED's interrogatories had been answered. Enbridge Gas fully cited the interrogatories alleged to be incomplete by ED and its corresponding responses in its November 19, 2024, letter.

## Findings

The OEB finds that a technical conference is not necessary in this proceeding.

The OEB has considered the record, which now includes pre-filed evidence, interrogatory responses, and correspondence among the parties, and is satisfied that it is sufficient to enable the OEB to proceed without a technical conference.

The OEB agrees with Enbridge Gas' submission that "a technical conference regarding the Company's evidence for the above-noted proceeding is not required since the record is complete and no party raised any substantive issues that would warrant further inquiry, clarification or examination through a technical conference".<sup>28</sup>

The OEB notes that the parties have had opportunities to seek clarification of the Enbridge Gas evidence through the interrogatory process and that the parties have exercised those opportunities.

The OEB also dismisses ED's motion for full and adequate interrogatory responses as a form of alternative relief to its technical conference request. The OEB is satisfied with the interrogatory responses provided by Enbridge Gas and will not require Enbridge Gas to respond to ED's further requests.

The OEB finds the approach taken by Enbridge Gas with respect to NSRC to be consistent with approaches taken on other applications that fall under the auspices of the NGEP, and Enbridge Gas has followed and responded to the standard OEB issues list as outlined in Procedural Order No. 1. The OEB is satisfied that the record as it

---

<sup>28</sup> Enbridge Gas Letter, November 19, 2024, p. 1.

currently stands provides the information necessary for the parties to make their written submissions on the merits of the application.

The OEB notes that the onus is on the applicant (Enbridge Gas) to prove its case. It is open to any party and OEB staff to argue that the application is deficient, and if the OEB agrees, then the application may be denied, adjourned, or approved subject to conditions. The OEB is providing ED, the other parties, and OEB staff the opportunity to make their written submissions on the merits of the application according to the schedule set out below.

## ORDER

### THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Enbridge Gas's argument-in-chief shall be filed with the OEB and served on all parties by **January 23, 2025**.
2. Any written submissions from OEB staff and intervenors shall be filed with the OEB and served on all parties by, **February 3, 2025**.
3. Any written reply submissions from Enbridge Gas shall be filed with the OEB and served on intervenors by **February 13, 2025**.

Parties are responsible for ensuring that any documents they file with the OEB, such as applicant and intervenor evidence, interrogatories and responses to interrogatories or any other type of document, **do not include personal information** (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's [Rules of Practice and Procedure](#).

Please quote file number **EB-2023-0343** for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the [OEB's online filing portal](#).

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address.
- Please use the document naming conventions and document submission standards outlined in the [Regulatory Electronic Submission System \(RESS\) Document Guidelines](#) found at the [File documents online page](#) on the OEB's website.
- Parties are encouraged to use RESS. Those who have not yet [set up an account](#), or require assistance using the online filing portal can contact [registrar@oeb.ca](mailto:registrar@oeb.ca) for assistance.
- Cost claims are filed through the OEB's online filing portal. Please visit the [File documents online page](#) of the OEB's website for more information. All participants shall download a copy of their submitted cost claim and serve it on all required parties as per the [Practice Direction on Cost Awards](#).

All communications should be directed to the attention of the Registrar at the address below and be received by end of business, 4:45 p.m., on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Arturo Lau at [Arturo.Lau@oeb.ca](mailto:Arturo.Lau@oeb.ca) and OEB Counsel, James Sidlofsky at [James.Sidlofsky@oeb.ca](mailto:James.Sidlofsky@oeb.ca).

Email: [registrar@oeb.ca](mailto:registrar@oeb.ca)

Tel: 1-877-632-2727 (Toll free)

**DATED** at Toronto, January 13, 2025

**ONTARIO ENERGY BOARD**

Nancy Marconi  
Registrar