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May 20, 2025

VIA RESS AND EMAIL

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-2024-0303
Tweed Community Expansion Project
Reply Submissions**

In accordance with Procedural Order No. 2, please find attached Enbridge Gas's Reply Submissions in the above-noted proceeding.

Sincerely,

Evan Tomek

Evan Tomek
Senior Advisor, Regulatory Applications – Leave to Construct

cc: Tania Persad (Enbridge Gas Counsel)
Arend Wakeford (Enbridge Gas Counsel)
Kristen Lozynsky (Enbridge Gas Counsel)
Catherine Nguyen (OEB Case Manager)
Lawren Murray (OEB Counsel)

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B; and in particular subsection 95(2) thereof;

AND IN THE MATTER OF an application by Enbridge Gas Inc. for an order granting exemption from the requirement to obtain leave to construct natural gas distribution pipelines and ancillary facilities that make up a Community Expansion Project to serve the Municipality of Tweed in the County of Hastings.

ENBRIDGE GAS INC.

REPLY SUBMISSION

Table of Contents

A. Introduction.....	2
B. Exemption from Leave to Construct Requirement	2
C. Indigenous Consultation	3
D. Capacity Funding	6
E. Conditions of Approval	6
F. Conclusion	6

A. Introduction

1. These are the Reply submissions of Enbridge Gas Inc. (Enbridge Gas or the Company) in respect of its application to the Ontario Energy Board (OEB) under section 95(2) of the *Ontario Energy Board Act, 1998* (OEB Act) for an order exempting the Company from the requirement to obtain leave to construct for natural gas pipelines and facilities in the Municipality of Tweed, in the County of Hastings (the Application or Project).
2. The Project is required to support the Government of Ontario's Natural Gas Expansion Program (NGEP) and is designed to expand access to natural gas to areas of Ontario that do not currently have access to natural gas. The need for the Project is directly supported by the community's municipal government through their request for natural gas for their constituents. The Mayor of the Municipality of Tweed emphasized their support for the Project on behalf of the Municipality via letter dated October 8, 2024.¹

B. Exemption from Leave to Construct Requirement

3. Section 95(2) of the OEB Act, together with Ontario Regulation 328/03 (Regulation) subsection 3.0.1 (1) set out certain circumstances in which a person is exempt from having to obtain leave under section 90(1) of the OEB Act.
4. As the Project is less than 20 km in length, uses pipe sizes less than 12 inches and will have an operating pressure less than 2,000 kilopascals, leave is only required by virtue of clause 90(1)(b) of the OEB Act. At a cost of \$4.4 million including ancillary costs, the Project cost is less than the \$10 million exemption cap prescribed by the Regulation. Therefore, Enbridge Gas agrees with OEB staff that, in accordance with section 3.0.1 of the Regulation, the central issue for the OEB to consider is whether the Crown's duty to consult has been adequately discharged.

¹ Exhibit A-2-1, Attachment 2.

5. Consistent with OEB staff's submissions, Enbridge Gas is of the view the Crown's duty to consult in relation to the Project has been adequately discharged through the consultation undertaken by Enbridge Gas and the regulatory process itself. Therefore, the OEB should grant an order under section 95(2) exempting Enbridge Gas from the requirement to obtain leave to construct for the Project.²

C. Indigenous Consultation

6. The Ministry of Energy and Electrification (ENERGY) delegated the procedural aspects of the duty to consult to Enbridge Gas and specifically outlined its expectations in relation to the consultation to be undertaken. Enbridge Gas accordingly implemented its consultation in a manner that met or exceeded the requirements ENERGY identified.
7. Consistent with the direction provided by ENERGY, Enbridge Gas implemented an expansive consultation program that involved: providing Project notification to the ten Nations identified by ENERGY as being potentially impacted by the Project early on in Project development; offering capacity funding to each Nation³; sharing information including the Environmental Report (ER); inviting each Nation to share comments and information, including information about any Indigenous rights practiced in the Project area; and responding to any expressed concerns and explaining how those concerns would be addressed, through mitigation or otherwise, moving forward. During the course of this consultation, Enbridge Gas offered to engage with the Nations in a variety of ways, including written communications, in-person meetings with a Nation's representatives and participation of the Nations in fieldwork.
8. Enbridge Gas retained Stantec Consulting Ltd. (Stantec) to undertake a route evaluation and environmental and socio-economic impact study, which included a cumulative effects assessment and a Stage 1 Archaeological Assessment

² OEB Staff Submission, p. 3.

³ Exhibit I.OEB STAFF-2.

(AA), to select the preferred route for the Project. Mitigation measures designed to minimize environmental and community impacts resulting from construction and operation of the Project were also developed as part of the study. The assessment was reflected in the ER, which was completed in accordance with the OEB's *Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Projects and Facilities in Ontario, 8th Edition (2023)*. Enbridge Gas is committed to undertaking the mitigation and protection measures identified in Table 5.1 of the ER⁴.

9. All ten Indigenous Nations or communities identified by ENERGY in its Delegation Letter⁵ were given the opportunity to review and comment on the draft ER and ask questions about the Project. Correspondence related to the review of the draft ER is included in the Indigenous Consultation Report⁶.
10. Curve Lake First Nation (CLFN) was the only Nation that provided comments on the ER and Enbridge Gas, in turn, responded in an effort to address any outstanding concerns.⁷ Huron Wendat Nation (HWN) advised Enbridge Gas of its concerns regarding the timing of the Stage 2 AA and Enbridge Gas explained the typical timing of the Stage 2 AA in response.⁸ No other specific substantive concerns have been identified by other Nations to date.⁹ Enbridge Gas primarily addressed the Indigenous communities' concerns by providing relevant Project information and explaining how proposed mitigation measures would limit impacts on the matters of interest to the communities. Enbridge Gas offered the Nations an opportunity to participate in the Stage 2 AA fieldwork and provided interested Nations with the completed Stage 2 AA report. Enbridge Gas also made additional commitments in the course of consultation with the Nations as

⁴ Exhibit F-1-1, Attachment 1, pp. 89-116.

⁵ Exhibit H-1-1, Attachment 2.

⁶ Exhibit H-1-1, Attachment 10 (updated March 19, 2025).

⁷ Ibid., Line-item attachment 4.16; CLFN provided additional comments on the ER on April 3, 2025, and Enbridge Gas responded on May 15, 2025.

⁸ Exhibit I.OEB STAFF-1.

⁹ Exhibit I.OEB STAFF-3.

summarized in Exhibit I.OEB STAFF-1 and Exhibit I.OEB STAFF-3. In response to CLFN's interest in a larger radius when completing the AA and request for Enbridge Gas's archaeological consultant to provide them with known locations of archaeological sites registered with the Ministry of Citizenship and Multiculturalism (MCM),¹⁰ representatives from Enbridge Gas's Environment team and Community and Indigenous Engagement team met with the consultant archaeologist and subsequently provided CLFN with a list of registered archaeological sites within 1 km of the study area and confirmed there are no registered sites within 50 m of the study area. Enbridge Gas is committed to continuing engagement with CLFN to address any concerns regarding the AA, including questions regarding the certainty of locations of sites listed in the MCM's database. In that regard, while the AA performed by a licensed archaeologist did not identify any archaeological resources in the Project area, Enbridge Gas is committed to implementing the procedures described in section 7.2.6 of the ER¹¹ to protect archaeological resources should they be discovered during the course of construction.

11. Enbridge Gas is committed to maintaining ongoing engagement with the Indigenous communities throughout the life of the Project to ensure any potential impacts on Aboriginal and treaty rights are addressed, as appropriate.
12. In addition to the consultation Enbridge Gas has undertaken with the ten Nations identified by ENERGY, the OEB process for Enbridge Gas's Application, as fully described in OEB staff's submission, provided the Nations a further opportunity to share their comments and concerns about the Project and gain an understanding of how those concerns would be addressed. A notice of hearing was served on all potentially impacted Nations or communities, providing the opportunity to become an intervenor, provide comments or ask to follow the

¹⁰ Exhibit I.OEB STAFF-1, part a).

¹¹ Exhibit F-1-1, Attachment 1, p. 132.

hearing as a monitor. No Indigenous community sought intervenor status or chose to file a letter of comment or to formally monitor the proceeding.¹²

D. Capacity Funding

13. In response to an interrogatory¹³, Enbridge Gas provided information regarding which communities accepted and were provided capacity funding. In that interrogatory response, Enbridge Gas confirmed that HWN requested capacity funding at an April 3, 2025 meeting and Enbridge Gas agreed to make arrangements to provide the funding.¹⁴ Enbridge Gas provided HWN with a capacity funding agreement for review on April 24, 2025. At this time, HWN has not accepted the agreement and advised Enbridge Gas via email on May 5, 2025 that they are pausing HWN's participation in the consultation process as they are in discussions with the Ministry of Energy and Mines¹⁵ regarding the timing and need for Stage 2 AAs for hydrocarbon projects.

E. Conditions of Approval

14. OEB staff submits that the OEB should approve the Project with the proposed Conditions of Approval attached as Schedule A to its submissions.¹⁶ Enbridge Gas agrees and is prepared to adhere to the conditions proposed by OEB staff.

F. Conclusion

15. Based on the foregoing, Enbridge Gas respectfully requests that the OEB issue an order exempting the Company from the requirement to obtain leave to construct for the Tweed Community Expansion Project pursuant to section 95(2) of the OEB Act. If exempted, Enbridge Gas is targeting to commence

¹² OEB Staff Submission, p. 4.

¹³ Exhibit I.OEB STAFF-2.

¹⁴ Ibid.

¹⁵ Effective March 19, 2025, the ministry name was changed from the Ministry of Energy and Electrification to the Ministry of Energy and Mines.

¹⁶ OEB Staff Submission, pp. 9-10.

construction for the Project in August 2025 and place the Project into service by December 2025. As such, Enbridge Gas respectfully requests that the OEB issue its decision expeditiously to enable Enbridge Gas to meet the construct schedule for the Project and its broader community expansion portfolio.