



# **DECISION AND ORDER**

**EB-2024-0303**

## **ENBRIDGE GAS INC.**

**Application for an Order granting an exemption from leave to  
construct for the Tweed Community Expansion Project**

**BEFORE: Robert Dodds**  
Presiding Commissioner

**Fred Cass**  
Commissioner

**David Sword**  
Commissioner

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**August 12, 2025**



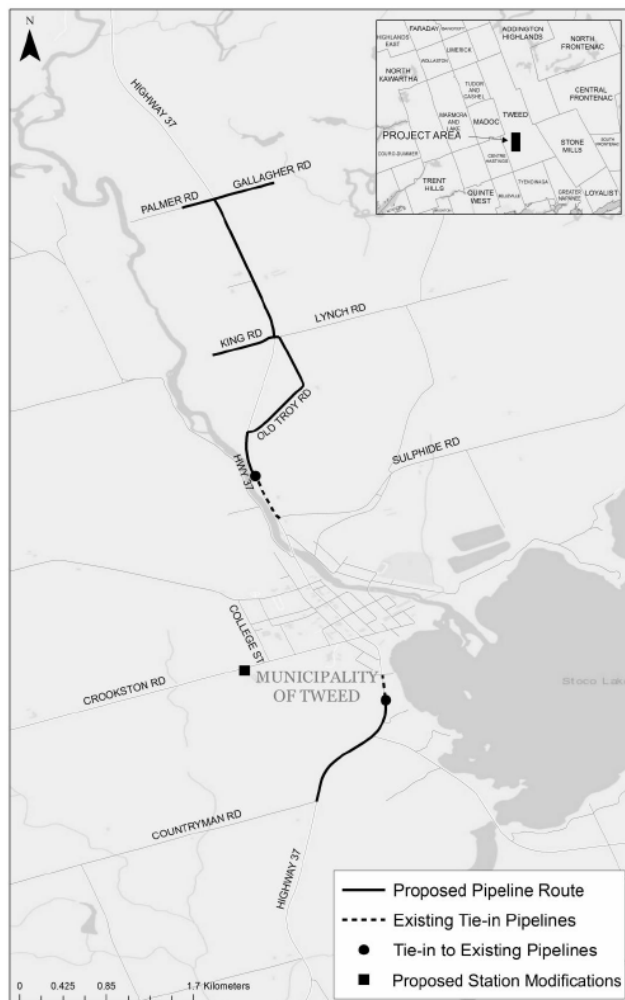
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# 1 OVERVIEW

On November 29, 2024, Enbridge Gas applied to the Ontario Energy Board under section 95(2) of the *Ontario Energy Board Act, 1998* (OEB Act) for an order granting an exemption from the requirement to obtain leave to construct a hydrocarbon line to serve approximately 41 customers in the Municipality of Tweed (Project).

The general location of the Project is shown on the map below:



For the reasons set out below, the OEB grants an order under section 95(2) of the OEB Act, exempting Enbridge Gas from the requirement to obtain leave to construct the Project, subject to the conditions attached as Schedule A to this Decision and Order.

## 2 APPLICATION SUMMARY AND PROCESS

### 2.1 Application Summary

The Project includes the construction of approximately 5.3 kilometres of Nominal Pipe Size (NPS) 2-inch polyethylene (PE) natural gas pipeline. The total estimated Project cost is \$4.4 million (\$3.9 million total pipeline costs and \$550K total ancillary costs).

Section 90(1) of the OEB Act requires that any person planning to construct a hydrocarbon line first obtain an order of the OEB granting leave to construct the line. Section 3.0.1(1) of O. Reg. 328/03 requires the OEB to make an order under subsection 95(2) of the OEB Act exempting a person from the requirement to obtain leave under subsection 90(1) if:

- a) Leave is required only by virtue of clause 90(1)(b) of the OEB Act (the proposed hydrocarbon line is projected to cost more than the amount prescribed by the regulations);
- b) The proposed hydrocarbon line is projected to cost more than the amount specified (\$2 million) in section 3 of O. Reg. 328/03 for the purposes of that clause, but not more than \$10 million; and
- c) The OEB makes a determination that the Crown's duty to consult, if it applies in respect of the application, has been adequately discharged

Enbridge Gas submitted that the Project should be exempt from the requirement to obtain leave to construct as the following aspects meet the exemption criteria:

- The Project is less than 20 km in length and uses pipe sizes less than 12 inches and has an operating pressure of less than 2,000 kilopascals. As a result, Enbridge Gas states that leave is only required for the Project because of clause 90(1)(b) of the OEB Act.
- The Project cost is \$4.4 million, which is less than the \$10 million prescribed in the regulation.
- Enbridge Gas was delegated the procedural aspects of Indigenous consultation by the Ministry of Energy and Mines (Ministry) and has carried out engagement and continues to carry out engagement with the identified Indigenous communities.

In this application, the central issue for the OEB to consider is whether the Crown's duty to consult has been adequately discharged.

## 2.2 Process

The OEB issued a Notice of Hearing on January 8, 2025, and sent it to the following Indigenous communities identified in the Delegation Letter issued by the Ministry on February 9, 2024:

- Alderville First Nation
- Beausoleil First Nation
- Curve Lake First Nation
- Chippewas of Georgina Island
- Chippewas of Rama First Nation
- Hiawatha First Nation
- Huron-Wendat Nation
- Kawartha Nishnawbe First Nation
- Mississaugas of Scugog Island First Nation
- Mohawks of the Bay of Quinte

The Notice of Hearing provided the opportunity to each of the notified communities to become an intervenor, provide comments or ask to follow the hearing as a monitor by February 24, 2025. None of the communities sought to become intervenors or otherwise participate in the proceeding.

The OEB issued Procedural Order No. 1 on March 6, 2025 which set the dates for the filing of interrogatories from OEB staff, interrogatory responses from Enbridge Gas and an updated Indigenous Consultation Report by Enbridge Gas.

The OEB issued Procedural Order No. 2 on April 21, 2025, which set the dates for the filing of a written submission from OEB staff and a reply submission from Enbridge Gas.

OEB staff and Enbridge Gas filed all documents in accordance with the dates established in the procedural orders.

On July 3, 2025, Enbridge Gas filed an update to the application to include a Letter of Opinion from the Ministry on the sufficiency of Indigenous consultation for the Project.

## 3 DECISION

### 3.1 Exemption Request

On February 9, 2024, the Ministry delegated the procedural aspects of the Crown's duty to consult to Enbridge Gas and identified 10 Indigenous communities to be consulted. As noted earlier, the central issue for the OEB to consider in this application is whether the Crown's duty to consult has been adequately discharged.

Pursuant to the OEB's Environmental Guidelines, Enbridge Gas filed an Indigenous Consultation Report with its application describing the consultation activities it had undertaken and a description of what, if any, accommodation is proposed with respect to the Project.<sup>1</sup> As required by Procedural Order No.1, Enbridge Gas filed an updated Indigenous Consultation Report on March 19, 2025 describing the consultation activities carried out after the application was filed.

Enbridge Gas stated that it implemented a consultation program to receive input from interested and potentially affected parties including Indigenous communities.<sup>2</sup> Enbridge Gas also offered capacity funding to each Indigenous community identified as potentially impacted by the Project to support timely activities such as technical review of Project documents, participation in field work and engagement in meaningful consultation.<sup>3</sup> Enbridge Gas provided the ten potentially impacted Indigenous communities with the following information:

- Notice of Upcoming Project and Notice of Study Commencement
- A detailed description of the nature and initial scope of the Project
- Maps of the Project location
- Information on how to participate in the In-Person and Virtual Information Sessions
- The Environmental Report, providing information about the potential effects of the Project on the environment and related mitigation measures
- Information on the Stage 2 Archaeological Assessment (AA) fieldwork
- The OEB's Notice of Hearing, providing information on how to participate in this proceeding

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<sup>1</sup> Exhibit H, Tab 1, Schedule 1, Attachment 9

<sup>2</sup> Exhibit F, Tab 1, Schedule 1, page 1, paragraph 2

<sup>3</sup> Exhibit H, Tab 1, Schedule 1, Attachment 9

The Environmental Report was circulated to Indigenous communities on September 5, 2024.<sup>4</sup> Enbridge Gas requested community feedback, including any suggestions or proposals on mitigating, avoiding or accommodating any potential impacts the Project may have on Aboriginal or treaty rights.<sup>5</sup>

Curve Lake First Nation and Huron Wendat Nation raised concerns, as described in the section below, during Enbridge Gas's consultation process. No other substantive concerns were raised by the other Indigenous communities identified in the Delegation Letter.

On July 3, 2025, Enbridge Gas filed an updated application, to include the Letter of Opinion it received from the Ministry. In the Letter of Opinion, the Ministry stated that it reviewed the information provided by Enbridge Gas as well as the materials filed in this proceeding and engaged with the impacted Indigenous communities to understand any concerns about potential impacts to Aboriginal and treaty rights from the Project as well as feedback relating to Enbridge Gas's responses or proposed mitigation. The Ministry is of the opinion that the procedural aspects of consultation undertaken by Enbridge Gas for the Project were satisfactory.

### Concerns Raised and Enbridge Gas's Response and Commitments

#### *Curve Lake First Nation*

During the pre-hearing consultation, Curve Lake First Nation provided comments on the Environmental Report. Curve Lake First Nation expressed an opportunity for Enbridge Gas to acknowledge the Treaty Territory and distinguish between Rights holders and interested Indigenous communities. Curve Lake First Nation recommended that there should be a plan to accommodate the Nation if issues affecting its rights cannot be resolved. They also raised concerns about watercourse crossings, wetland disturbances, archaeology, and requested a tree inventory.

In its responses to Curve Lake First Nation, Enbridge Gas advised that no in-water work or tree removals are anticipated and committed to consulting Curve Lake First Nation if a trenchless water course crossing method cannot be performed. Enbridge Gas also committed to sharing the tree inventory should any trees be removed and noted that the pipeline will be installed in previously disturbed road allowance, with restoration to pre-

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<sup>4</sup> Exhibit F, Tab 1, Schedule 1, page 4, paragraph 9

<sup>5</sup> Exhibit H, Tab 1, Schedule 1, Attachment 9

construction conditions or better. Enbridge Gas committed to inviting Curve Lake First Nation to post-construction monitoring site visits at 3 and 15 months post-energization.

Enbridge Gas stated that at a March 27, 2025 in-person meeting, Curve Lake First Nation expressed satisfaction with Enbridge Gas's responses but expressed interest in a wider radius for archaeological assessments and requested the known locations of registered archaeological sites.<sup>6</sup> Enbridge Gas stated that it provided Curve Lake First Nation with a list of registered archaeological sites within 1 kilometre of the study area and confirmed there are no registered sites within 50 metres of the study area.<sup>7</sup>

Curve Lake First Nation also requested the Stage 2 AA report, which was provided by Enbridge Gas on April 3, 2025.

### *Huron Wendat Nation*

Through the pre-hearing consultation, Huron Wendat Nation advised that it would like to participate in the Stage 2 AA work and Enbridge Gas contacted Huron Wendat Nation to provide the opportunity to participate.<sup>8</sup> Huron Wendat Nation did not have field liaisons available for the scheduled dates and advised that more notice is needed. Enbridge Gas advised that it would provide any findings when they become available.<sup>9</sup>

On March 31, 2025, Huron Wendat Nation emailed Enbridge Gas about the timing of the Stage 2 AA and requested the Stage 2 AA prior to the Environmental Report and/or prior to the application being approved.<sup>10</sup> On April 3, 2025 at an in-person meeting with Huron Wendat Nation, Enbridge Gas provided an explanation of the typical timing of the Stage 2 AA and provided the Stage 2 AA report for the Project to Huron Wendat Nation.<sup>11</sup>

Enbridge Gas provided Huron Wendat Nation with a capacity funding agreement for review on April 24, 2025.<sup>12</sup> As of the date of Enbridge Gas's reply submission, Huron Wendat Nation has not accepted the agreement and advised Enbridge Gas via email on May 5, 2025 that it is pausing participation in the consultation process as they are in

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<sup>6</sup> Exhibit I.OEB STAFF-1a)

<sup>7</sup> Enbridge Gas Reply Submissions, page 5

<sup>8</sup> Exhibit H, Tab 1, Schedule 1, Attachment 9, p. 8

<sup>9</sup> Exhibit H, Tab 1, Schedule 1, Attachment 10, pp. 36-37

<sup>10</sup> Exhibit I.OEB STAFF-3

<sup>11</sup> Ibid.

<sup>12</sup> Enbridge Gas Reply Submission, page 6



discussions with the Ministry regarding the timing and need for Stage 2 AAs for hydrocarbon projects.<sup>13</sup>

### Submissions

OEB staff submitted that, to the extent that the duty to consult has been triggered by the Project, the duty to consult has been discharged sufficiently to allow the OEB to approve the exemption to the requirement to seek leave to construct the Project. OEB staff's submission was made under the assumption that: i) Enbridge Gas will fulfil its commitments to accommodation activities; and ii) Enbridge Gas will continue to engage with the ten Indigenous communities throughout the life of the Project. In reaching this view, OEB staff reviewed specific concerns that were raised through Enbridge Gas's consultation by two of the communities (Curve Lake First Nation and Huron Wendat Nation) and Enbridge Gas's response to those concerns and related commitments.

OEB staff stated that there is no evidence on the record that identified outstanding concerns regarding Project specific impacts to Aboriginal or treaty rights. OEB staff also noted that none of the ten potentially impacted Indigenous communities intervened in this proceeding to raise concerns about the Project.

In its reply submission, Enbridge Gas argued that it has implemented its consultation in a manner that met or exceeded the requirements the Ministry identified in the Delegation Letter. Enbridge Gas also stated that it is committed to maintaining ongoing engagement with the communities throughout the life of the Project to ensure any potential impacts on Aboriginal or treaty rights are addressed, as appropriate.

### **Findings**

The OEB is satisfied that Enbridge Gas followed the OEB's Environmental Guidelines with respect to Indigenous Consultation and finds that the duty to consult has been adequately discharged.

The OEB accepts the OEB staff statement that there is no evidence on the record that identified outstanding concerns regarding Project specific impacts to Aboriginal or treaty rights. OEB staff also noted that none of the ten potentially impacted Indigenous communities intervened in this proceeding to raise concerns about the Project.

This finding is further supported by the Ministry's Letter of Opinion, dated July 2, 2025, stating that it is of the opinion that the procedural aspects of consultation undertaken by

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<sup>13</sup> Ibid.

Enbridge Gas-to-date for the purposes of an exemption for Leave to Construct for the Project are satisfactory.

The OEB expects that: i) Enbridge Gas will fulfil its commitments to accommodation activities; and ii) Enbridge Gas will continue to engage with the ten Indigenous communities throughout the life of the Project.

### **3.2 Conditions of Approval**

Section 23 of the OEB Act permits the OEB, when making an order, to impose conditions as it considers appropriate. In its submission, OEB staff advocated for six conditions to be imposed as part of the approval of this exemption application. In its reply, Enbridge Gas advised that it is prepared to adhere to the conditions proposed by OEB staff.

### **Findings**

The OEB grants an order under section 95(2) of the OEB Act, exempting Enbridge Gas from the requirement to obtain leave to construct the Project, subject to the conditions attached as Schedule A to this Decision and Order.

## 4 ORDER

### THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Enbridge Gas Inc. is granted an exemption under section 95(2) of the OEB Act from the requirement to obtain leave to construct under section 90(1) of the OEB Act, to construct the Project in the Municipality of Tweed as described in its application, subject to the Conditions of Approval attached as Schedule A to this Decision and Order.

**DATED** at Toronto August 12, 2025

### ONTARIO ENERGY BOARD

Ritchie Murray  
Acting Registrar

**SCHEDULE A**  
**DECISION AND ORDER**  
**ENBRIDGE GAS INC.**  
**EB-2024-0303**  
**AUGUST 12, 2025**

**Application under Section 95(2) of the OEB Act**  
**CONDITIONS OF APPROVAL**

1. Enbridge Gas shall construct the facilities and restore the land in accordance with its application and the evidence filed in EB-2024-0303 and these Conditions of Approval.
2. Unless otherwise ordered by the OEB, exemption from the requirement to obtain leave to construct shall terminate 12 months from the date of the OEB's approval of the exemption application, unless construction has commenced prior to that date.
3. Enbridge Gas 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 full project in-service date, no later than 10 days after all the facilities go into service.
4. Enbridge Gas shall obtain all necessary approvals, permits, licences, certificates, agreements and rights required to construct, operate and maintain the Project.
5. Enbridge Gas shall implement all the recommendations of the Environmental Report filed in the proceeding.
6. Enbridge Gas 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.