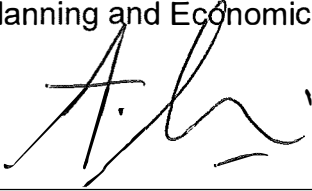




**CITY OF HAMILTON**  
**PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT**  
**Growth Management Division**

**REFERENCE MATERIAL ONLY**

<b>TO:</b>	Mayor and Members General Issues Committee
<b>COMMITTEE DATE:</b>	February 7, 2020
<b>SUBJECT/REPORT NO:</b>	Enbridge Gas Inc. Leave to Construct Application for the 2021 Dawn to Parkway Extension and Integrated Resource Planning Proposal (PED20053) (Wards 13 and 15)
<b>WARD(S) AFFECTED:</b>	Wards 13 and 15
<b>PREPARED BY:</b>	Guy Paparella (905) 546-2424 Ext. 5807 Alvin Chan (905) 546-2424 Ext. 2978
<b>SUBMITTED BY:</b>	Tony Sergi Senior Director, Growth Management Planning and Economic Development Department
<b>SIGNATURE:</b>	

**RECOMMENDATIONS**

- (a) That the General Manager of Planning and Economic Development be authorized and directed to advise the Ontario Energy Board that Hamilton withdraws its request for intervenor status for file EB-2019-0159 in respect of the Enbridge Gas Inc. Leave to Construct Application for the 2021 Dawn to Parkway and Integrated Resource Planning Proposal.

**SUBJECT: Enbridge Gas Inc. Leave to Construct Application for the 2021 Dawn to Parkway Extension and Integrated Resource Planning Proposal (PED20053) (Wards 13 and 15) - Page 2 of 17**

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**EXECUTIVE SUMMARY**

Enbridge Gas Inc. ("Enbridge") has applied to the Ontario Energy Board ("OEB") to construct 10.2 kilometres of 48-inch diameter natural gas pipeline and associated facilities in the City of Hamilton from the Kirkwall Valve Site to the Hamilton Valve Site. The Project will provide incremental capacity of 92,174 GJ/d on Enbridge Gas's Dawn Parkway System with an in-service date in the fall of 2021. The proposed project extends through the City of Hamilton, more specifically, Wards 13 and 15 (see attached Appendix "A" to Report PED20053).

Enbridge has also applied to the OEB for approval of its Integrated Resource Planning Proposal, as it applies to the proposed project and future projects, as it will allow the OEB to better assess future projects. However, per Procedural Order 1 of the OEB dated January 30<sup>th</sup>, 2020 (see attached Appendix "B" to Report PED20053), the Enbridge Integrated Resource Planning (IRP) Proposal shall be heard separate and apart from the current Leave to Construct application proceeding.

Procedural Order 1 goes on to state that, whereby Enbridge Gas, and any parties that filed intervenor requests or parties that filed comments may file with the OEB by February 10, 2020 written submissions regarding the Draft Issues List attached as Appendix A to the Procedural Order and to confirm the additional scope for the Leave to Construct Proceeding.

Accordingly, staff from Healthy and Safe Communities, Planning and Economic Development and Public Works have determined the additional scope of the Leave to Construct proceeding to be appropriate, which shall be confirmed to the OEB through the recommended submissions.

With respect to the Draft Issues list, staff have requested that an additional issue be included to address the proposal and how it addresses the City's declared Climate Emergency, established policies and goals.

In particular, given the lifespan of the proposed pipeline being beyond 2050; and, as it falls fully within the municipal boundaries of the City of Hamilton, how does Enbridge Gas Inc., proposed Leave to Construct Application address the City of Hamilton's declared Climate Emergency and subsequent policies and goals?

In conclusion, the approval of this Report will also authorize City staff to file Interrogatories; and, a Letter of Comment including potential Conditions of Approval, to the OEB, with respect to the Enbridge Gas Inc. Leave to Construct Application for the 2021 Dawn to Parkway Extension.

**SUBJECT: Enbridge Gas Inc. Leave to Construct Application for the 2021 Dawn to Parkway Extension and Integrated Resource Planning Proposal (PED20053) (Wards 13 and 15) - Page 3 of 17**

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**Alternatives for Consideration – See Page 17**

**FINANCIAL – STAFFING – LEGAL IMPLICATIONS**

**Financial:** If the alternative recommendation is approved by Council, the City will be affirming that they wish to participate in the legal oral hearing proceeding, which may necessitate outside counsel and consultants in representing the City's concerns.

**Staffing:** Not Applicable

**Legal:** The OEB will hold a public oral hearing to consider Enbridge's Leave to Construct Application. As part of its review of this application, the OEB will assess Enbridge's compliance with the OEB's Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario.

If directed, the City shall submit a Letter of Comment including potential conditions and interrogatories to the OEB, and requesting that Enbridge Gas Inc., provide a response as to the acceptability and reasonableness of the interrogatories submitted for the Enbridge Gas Inc. Leave to Construct Application for the 2021 Dawn to Parkway Extension.

If the alternative recommendation is approved by Council, the City will be affirming that they wish to participate in the legal oral hearing proceeding, which may necessitate outside counsel and consultants in representing the City's concerns.

**HISTORICAL BACKGROUND**

On November 1, 2019, Enbridge submitted the Leave to Construct Application related to the 2021 Dawn to Parkway Extension and Integrated Resource Planning Proposal to the OEB, the Province's energy regulator responsible for ensuring compliance with the Province's environmental guidelines for the location, construction and operation of hydrocarbon pipelines and facilities in Ontario.

The proposed project will construct approximately 10.2 kilometres of Nominal Pipe Size ("NPS") 48 natural gas pipeline from an interconnect at the Kirkwall Valve Site to the Hamilton Valve Site in the City of Hamilton more specifically, Wards 13 and 15 (see attached Appendix "A" to Report PED20053). Subject to Provincial regulatory review and receipt of all permits, Enbridge expects this project to be in service as of November 1, 2021.

**SUBJECT: Enbridge Gas Inc. Leave to Construct Application for the 2021 Dawn to Parkway Extension and Integrated Resource Planning Proposal (PED20053) (Wards 13 and 15) - Page 4 of 17**

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The application for Leave to Construct for the proposed project; its regulatory review; and, the Environmental Report, are available for download from Enbridge's project website at:

[www.uniongas.com/projects/kirkwall-hamilton](http://www.uniongas.com/projects/kirkwall-hamilton)

As well as on the OEB's regulatory applications page at:

[www.rds.oeb.ca/HPECMWebDrawer/Record?q=CaseNumber%3DEB-2019-0159&sortBy=recRegisteredOn-&pageSize=400](http://www.rds.oeb.ca/HPECMWebDrawer/Record?q=CaseNumber%3DEB-2019-0159&sortBy=recRegisteredOn-&pageSize=400)

Of note, the OEB project website also includes letter of comment and request for intervenor status submissions from citizens, agencies, and others.

Enbridge has also requested that the OEB determine that the Integrated Resource Planning ("IRP") Proposal, to be reasonable and appropriate, as it relates to the Project and for application to future Enbridge projects.

However, per Procedural Order 1 of the OEB dated January 30, 2020 (see attached Appendix "B" to Report PED20053), the IRP Proposal raises issues of broad applicability that are best dealt with outside of the context of a project-specific Leave to Construct proceeding.

Accordingly, the OEB has determined that Enbridge's IRP Proposal should be heard separate and apart from the current Leave to Construct application proceeding.

Furthermore, the Procedural Order states that "whereby Enbridge Gas, and any parties that filed intervenor requests or parties that filed comments may file with the OEB by February 10, 2020 written submissions on the following:

- 1) The Draft Issues List attached to Appendix A to this Procedural Order.
- 2) Whether the scope of the Leave to Construct proceeding should include:
  - a. impacts related to the methods of upstream natural gas extraction (such as hydraulic fracturing) for natural gas that will be transported through the pipeline; and,
  - b. impacts related to the ultimate downstream consumption of the natural gas transported through the pipeline."

**SUBJECT: Enbridge Gas Inc. Leave to Construct Application for the 2021 Dawn to Parkway Extension and Integrated Resource Planning Proposal (PED20053) (Wards 13 and 15) - Page 5 of 17**

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In review of the matters identified within the Procedural Order, staff support the additional scope identified in item 2 above; and, request that an additional issue be added to the Draft Issues list per Item 1 above.

In particular, given the lifespan of the proposed pipeline is beyond 2050; and, as it falls fully within the municipal boundaries of the City of Hamilton, how does Enbridge's proposed Leave to Construct Application address the City of Hamilton's declared Climate Emergency and subsequent policies and goals?

**POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS**

In review with the Healthy and Safe Communities - Public Health Services – Healthy Environments Division – Health Hazards Section, the following outline of the City's Climate Change initiatives has been provided.

Climate change refers to the long-term change in average weather patterns resulting from the release of greenhouse gases ("GHG") into the atmosphere, resulting in temperature changes and altered weather patterns. Key sources of GHG in Hamilton include the burning of fossil fuels such as and natural gas in energy consumption; for heating and cooling, lighting and powering electronics; and transportation. Accordingly, reducing GHG emissions helps conserve our energy supply, improves air quality and reduces their effect on climate change and ecosystems.

In 2008 the City passed the Corporate Air Quality and Climate Change Action Plan; and the Corporate Air Quality and Climate Change Strategic plans. In addition, a GHG emissions inventory for City of Hamilton operations and in our community was completed in 2009.

Furthermore, as part of the Federation of Canadian Municipalities Partners for Climate Protection program, Hamilton achieved all five corporate milestones in in 2012. Hamilton has achieved up to milestone three for its community work. Notwithstanding, the City continues to work towards reducing GHG locally from both its corporate and community emissions, in particular:

- a 50% reduction of 2005 greenhouse gases levels by 2030;
- an 80% reduction of 2005 greenhouse gases levels by 2050.

Subsequently, City Council declared a climate change emergency on March 27, 2019, which details intent to change the community wide GHG target from 80% to carbon neutrality before 2050. This aligns more closely with recent United Nations Intergovernmental Panel on Climate Change (IPCC) reports highlighting the global need to drastically reduce GHG emissions.

**SUBJECT: Enbridge Gas Inc. Leave to Construct Application for the 2021 Dawn to Parkway Extension and Integrated Resource Planning Proposal (PED20053) (Wards 13 and 15) - Page 6 of 17**

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As part of the subject application, an environmental report was completed in 2019 by Stantec Consulting Limited and filed with the OEB. In particular, it states that natural gas, because of its clean-burning properties, has an increasingly important role to play in reducing the environmental impacts in comparison to other forms of energy use. The use of natural gas, either in conjunction with or instead of other fossil fuels, in residential, commercial, industrial and transportation applications reduces environmental impacts in two ways.

Enbridge application to OEB, Exhibit A Tab 8, has stated the following in regards the benefits of natural gas compared to other high carbon intensive fuels:

- Firstly, processing with natural gas is frequently more efficient, reducing total energy use; and
- Secondly, natural gas pollutant release per unit of energy is less than other fossil fuels. Natural gas combustion produces virtually no sulphur dioxide – the most significant component of acid rain formation. Combustion of natural gas also emits 2 significantly lower amounts of reactive hydrocarbons and nitrogen oxides – the key 3 photochemical agents in the formation of urban smog.

Exhibit A, Tab 10 of the Enbridge Application to OEB further states:

- The environmental report also identifies an environmentally preferred route for the proposed pipeline and the various mitigation measures to minimize the impacts to the environment resulting from the construction of the Project.
- Enbridge believes that by following its standard construction practices and adhering to the recommendations and mitigation identified in the environmental report that the construction and operation of the Project will have negligible impacts on the environment. The cumulative effects assessment completed as part of the environmental report indicates that no significant cumulative effects are anticipated from the development of the Project, and Enbridge will comply with all mitigation measures recommended in the environmental report.

However, staff note that global warming has been largely attributed to human activity, primarily being the release of carbon dioxide and other greenhouse gases to the atmosphere.

These gases enhance the insulating properties of the atmosphere, reducing heat loss, thereby warming the planet. Continued emission of these gases is the primary cause for concern about climate change now and into the immediate future. Particularly important is the emissions of carbon dioxide, which is released through the combustion of carbon-

**SUBJECT: Enbridge Gas Inc. Leave to Construct Application for the 2021 Dawn to Parkway Extension and Integrated Resource Planning Proposal (PED20053) (Wards 13 and 15) - Page 7 of 17**

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is the emissions of carbon dioxide, which is released through the combustion of carbon-based fossil fuels. In Canada, over 80 % of total national greenhouse gas emissions are associated with the production or consumption of fossil fuels for energy purposes.

As carbon dioxide stays in the atmosphere for a long time, levels of carbon dioxide continue to build-up in the atmosphere with on-going human emissions. Even with human emissions eliminated, atmospheric levels of carbon dioxide would fall very gradually as natural processes slowly remove carbon dioxide from the atmosphere. This means that past emissions from human activity continue to affect the climate system for a very long time.

The potential impacts of climate change are far-reaching, affecting our economy, infrastructure, and health, the landscapes around us, and the wildlife that inhabit them. However, notwithstanding the above, the decision with respect to the Leave to Construct Application for the 2021 Dawn to Parkway Extension and Integrated Resource Planning Proposal, is that of the Ontario Energy Board.

Accordingly, the City's Pipeline Technical Review team has reviewed the Leave to Construct Application for the 2021 Dawn to Parkway Extension and have recommended that the General Manager of Planning and Economic Development be authorized and directed to withdraw "Intervenor" status and to raise potential municipal issues of concern by submitting a Letter of Comment including potential conditions and interrogatories to the Ontario Energy Board, and requesting that Enbridge Gas Inc., provide a response as to the acceptability and reasonableness of the interrogatories submitted for the Enbridge Gas Inc. Leave to Construct Application for the 2021 Dawn to Parkway Extension.

Lastly, per the Procedural Order 1 (see attached Appendix "B" to Report PED20053), staff support the additional scope identified in item 2 above; and, request that an additional Issue be added to the Draft Issues list per Item 1 above.

In particular, given the lifespan of the proposed pipeline is beyond 2050; and, as it falls fully within the municipal boundaries of the City of Hamilton, how does Enbridge's proposed Leave to Construct Application address the City of Hamilton's declared Climate Emergency and subsequent policies and goals?

**OEB Decision-making Process:**

The OEB is an independent, quasi-judicial tribunal that is regulated by the *Ontario Energy Board Act* (the "Act"). The primary objective of the OEB is to ensure the public interest is served and protected. Any individual or organization planning to construct

**SUBJECT: Enbridge Gas Inc. Leave to Construct Application for the 2021 Dawn to Parkway Extension and Integrated Resource Planning Proposal (PED20053) (Wards 13 and 15) - Page 8 of 17**

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certain hydrocarbon transmission facilities within Ontario must apply to the OEB for a Leave to Construct prior to construction, pursuant to section 90(1) of the *Act*.

The OEB's approval for construction of pipelines is conditioned upon compliance with applicable regulatory requirements including design, operation, maintenance, safety, and integrity. The OEB will hold a public oral hearing to consider Enbridge's Leave to Construct Application.

As part of its review of this application, the OEB will assess Enbridge's compliance with the OEB's Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario. The City's formal submission of Interrogatories; and, Letter of Comment including conditions, if submitted, will be considered at the oral hearing.

## **RELEVANT CONSULTATION**

The following groups were consulted and provided input to this Report:

- City Manager's Office – Legal and Risk Management Services Division;
- Healthy and Safe Communities - Public Health Services – Healthy Environments Division – Health Hazards Section;
- Healthy and Safe Communities – Hamilton Fire Department;
- Planning and Economic Development – Growth Management Division;
- Planning and Economic Development – Planning Division;
- Public Works – Engineering Services Division – Geomatics and Corridor Management Section; and,
- Public Works – Hamilton Water – Source Protection Planning Section.

Staff from the above listed Departments have assembled comments regarding the proposed Enbridge 2021 Dawn to Parkway Extension Project. If the Recommendations in this Report are approved, the comments will be submitted to Enbridge and a Letter of Comment will be submitted to the OEB for consideration as part of the Leave to Construct Application and their decision.

## **ANALYSIS AND RATIONALE FOR RECOMMENDATION**

### **Potential Municipal Issues of Concern:**

Staff from Healthy and Safe Communities (the Hamilton Fire Department and Healthy Environments – Health Hazards), Planning and Economic Development (Planning Division), and Public Works (Hamilton Water – Source Water Protection and Engineering Services – Geomatics and Corridor Management); and, the City Manager's



**SUBJECT: Enbridge Gas Inc. Leave to Construct Application for the 2021 Dawn to Parkway Extension and Integrated Resource Planning Proposal (PED20053) (Wards 13 and 15) - Page 9 of 17**

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Office – Legal and Risk Management Services Division have identified potential municipal issues regarding the proposed project.

***Emergency Response Issues:***

The Hamilton Fire Department is requesting the following in relation to potential emergency response concerns and conditions regarding the project:

- 1) That Enbridge provide a copy of the emergency response plan specific to the construction and cutover activities.
- 2) That Enbridge provide contact information for their site commander relative to the cutover of the replacement line so that consultation and co-ordinated planning can take place.
- 3) Given that the diameter of the pipe is being installed for this project, the Hamilton Fire Department is looking for Enbridge to provide information relative to the installation of control valves on the pipeline and to confirm the quantity of product that will be transported through the pipeline.
- 4) That Enbridge provide adequate access points / routes to any new or replacement sections of the pipeline.
- 5) Development of a Traffic Plan – there are some critical intersections from an emergency response perspective that could be affected as part of the project. The Hamilton Fire Department should be consulted on developing traffic plans given these concerns.
- 6) Emergency Response Equipment – given the potential for increase in levels of product being transported, Enbridge must ensure that the levels of emergency response equipment that they would be providing in the event of an emergency are maintained and or increased at adequate levels.
- 7) Financial assurance – allocation of financial responsibility for costs that may be incurred for emergency response, clean-ups and other required action, such as evacuation in the event of a spill, particularly costs which may be in excess of Enbridge's commercial liability insurance coverage limits.

***Cultural Heritage Issues:***

The location of the project meets seven of the ten criteria used by the City of Hamilton and the Ministry of Heritage, Sport, Tourism, and Culture Industries for determining archaeological potential.

In review of the application, the site was assessed in a Stage 1 archaeological assessment (P256-0564-2018) conducted as part of Union Gas' environmental report for this project. The report recommended and indicated that a Stage 2 archaeological assessment will be conducted before commencement of the project.

Staff agree with the recommendations and have requested the appropriate condition to address this concern.

Additionally, the location of the project comprises one designated property, which includes a cemetery (1565 Brock Road, Flamborough) and approximately fifty-five properties included in the City's Inventory of Buildings of Architectural and/or Historical Interest.

As part of Union Gas' environmental report for this project, a cultural heritage assessment report was conducted. Based on the desired location of the pipeline, the assessment report concluded that only one (1) of the cultural heritage resources located within the area of the project, 750 Concession 8 West, was situated within fifty metres of the planned construction activities and, therefore, is at risk for indirect, vibration-related impacts.

The report recommends that all staging areas and construction activities associated with the proposed route "be planned and undertaken in a manner to avoid the heritage attributes of the identified CHRs." It was also recommended that a qualified heritage consultant should be employed should future work require expansion and/or development of other alternatives.

In terms of the potential vibration impacts on 750 Concession 8 West, it is recommended that a qualified building conditions specialist or geotechnical engineer with previous heritage structure experience be consulted to identify vibration mitigation measures in advance of construction.

Staff agree with these recommendations and have therefore requested respective conditions of approval to address the built heritage resources. In particular:

**SUBJECT: Enbridge Gas Inc. Leave to Construct Application for the 2021 Dawn to Parkway Extension and Integrated Resource Planning Proposal (PED20053) (Wards 13 and 15) - Page 11 of 17**

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- 1) That a Stage 2 archaeological assessment will be conducted on any portion of the Project's anticipated construction activities which impacts areas of identified archaeological potential, as outlined P256-0564-2018.
- 2) That, as part of ongoing Indigenous Engagement Strategies, Indigenous stakeholders shall be able to review, comment or take part in the current report and future archaeological assessment work for this project.
- 3) As outlined in the CHAR, that Enbridge Gas Inc., shall ensure that:
  - a. staging areas and construction activities associated with the proposed route be planned to avoid the heritage attributes of the identified cultural heritage resources;
  - b. a qualified heritage consultant should be employed should future work require expansion and/or development of other alternatives; and
  - c. prepare vibration mitigation strategy for 750 Concession 8 West.

***Natural Heritage Issues:***

In review, Natural Heritage staff have provided the following comments as it relates to the Natural Environment.

The Stantec Dawn-Parkway System Expansion: Kirkwall-Hamilton Pipeline Section: Environmental Report (June 21, 2019) relied on existing field data, background information, a field reconnaissance site visit on August 10, 2016, and aerial reconnaissance on December 5, 2016, to evaluate the impacts and proposed route options.

Detailed field studies to confirm Species-at-Risk (SAR) and Significant Wildlife Habitat (SWH) are proposed "prior to construction" because "these supplemental studies are not expected to change the conclusions regarding potential adverse residual impacts". SAR and SWH screenings were completed in the Stantec report and numerous areas of potential SAR habitat and candidate SWH were identified along the proposed pipeline route.

However, the deferral to future studies are of concern to staff and has raised several interrogatories to be posed and responded to by Enbridge Gas Inc., being:

**SUBJECT: Enbridge Gas Inc. Leave to Construct Application for the 2021 Dawn to Parkway Extension and Integrated Resource Planning Proposal (PED20053) (Wards 13 and 15) - Page 12 of 17**

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- 1) How can decisions on the impacts of the project and the preferred route be made before detailed field data (i.e. Ecological Land Classification, fish habitat assessment, species at risk, Significant Wildlife Habitat) are available?
- 2) Are decisions being made without complete and current data?
- 3) Was the local data in the Hamilton Natural Heritage Database/Nature Counts used?
- 4) Is it reasonable to assume that all potential impacts on natural features, SAR and SWH can be mitigated when the process is well-advanced ("prior to construction")? Will it be too late to properly avoid or mitigate impacts?
- 5) Will forest habitat along the proposed pipeline route be assessed as Significant Wildlife Habitat (bat maternity colonies, woodland raptor nesting habitat, and woodland area-sensitive breeding bird habitat)?

Similarly, Significant Woodlands are discussed in the Stantec report, but are not identified on Figure 12 which raises:

- 6) Where are Significant Woodlands located along the pipeline route (show on Figure 12) and how will they be impacted?

Moreover, the report provides limited details on the tree replacement program. Since "free to grow" is defined as a plant which is 1 metre tall, it appears that very small caliper nursery stock are proposed, which raises additional concerns and interrogatories, being:

- 7) What size of tree will be compensated?
- 8) What size of nursery stock will be planted?
- 9) Does the proposed removal of vegetation and trees and the tree replacement policy (1:1) adequately address the loss of canopy cover and the time lag for the canopy to re-establish? How does this address climate change? If a large tree is to be removed and only one small caliper tree planted to compensate, how does this address the temporary loss of canopy and ecological benefits?
- 10) Would a more robust tree planting program better mitigate impacts of vegetation loss and climate change?

**SUBJECT: Enbridge Gas Inc. Leave to Construct Application for the 2021 Dawn to Parkway Extension and Integrated Resource Planning Proposal (PED20053) (Wards 13 and 15) - Page 13 of 17**

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Lastly, natural and cumulative impacts are briefly discussed, but details are not provided. Since the proposed pipeline will parallel two to three existing pipelines, the increasing width of the corridor and associated loss of natural area was not discussed which raises additional concerns interrogatories to be addressed by Enbridge Gas Inc, Accordingly, the following interrogatories are proposed:

- 11) Is trenchless technology (tunnelling) under sensitive features (stream crossings, wetlands) being considered as a way of minimizing disturbance and impacts?
- 12) What on-going maintenance requirements are proposed (e.g. periodic vegetation removal, site alteration) and how will these impact natural features?
- 13) What are the cumulative impacts of expanding the width of the pipeline corridor on the Natural Heritage System and how are they being addressed? How wide will the area of disturbance be?

Notwithstanding the above, should the OEB decide to grant the proposed Leave to Construct, the following conditions of approval are requested, if submitted.

- 1) That prior to OEB approval, Enbridge Gas Inc., shall prepare a revised Environmental Report, containing completed field work, and revised avoidance and mitigation measures.
- 2) That Enbridge Gas Inc., shall obtain all necessary authorizations for the design, planning, construction, and operation of the project, including without limitation all necessary permits, easements, and other authorizations from the Department of Fisheries and Oceans, Province, municipalities and conservation authorities.
- 3) That Enbridge Gas Inc., shall construct the project using trenchless technology methods through all sensitive sites as agreed upon by the City, Conservation Authorities, and Enbridge.
- 4) That Enbridge Gas Inc., shall prepare and file with OEB a Restoration Plan at least 60 days prior to the commencement of construction and restore all lands impacted by the project within one year of the completion of construction. The Restoration Plan shall include a detailed monitoring plan, to ensure that vegetation survives.
- 5) That Enbridge Gas Inc., shall identify areas where invasive species are present and implement Best Management Practices for Construction, to avoid the spread of invasive species between sites.

**SUBJECT: Enbridge Gas Inc. Leave to Construct Application for the 2021 Dawn to Parkway Extension and Integrated Resource Planning Proposal (PED20053) (Wards 13 and 15) - Page 14 of 17**

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- 6) That Enbridge Gas Inc., shall prepare a Tree Protection Plan, according to the City of Hamilton's Tree Protection Guidelines (2010) to the satisfaction of the Manager of Development Planning, Heritage and Design and the Forestry Section.
- 7) That Enbridge Gas Inc., shall implement all the mitigation and protective measures in the Stantec Dawn-Parkway System Expansion: Kirkwall-Hamilton Pipeline Section: Environmental Report (June 21, 2019), specifically Table 4-11.
- 8) That Enbridge Gas Inc., shall avoid construction activities within the timing windows for wildlife and fish (e.g. migratory birds, breeding amphibians, bat maternity roosts, fish, and hibernating reptiles and amphibians).

***Corridor Management Issues:***

The following comments relate to the road crossing portions of the proposed pipeline project. In particular, the proposal involves crossings at the following locations:

- Westover Road (RA Between Lots 30 and 31 Concession 7, Geographic Township of Beverly);
- Middletown Road (RA Between Lot 36, Concession 7 Geographic Township of Beverly and Lot 1, Concession 7, Geographic Township of West Flamborough); and,
- Brock Road (Given Road Part of Lot 7 Concession 7, Geographic Township of West Flamborough)

In review, staff note that the 2000 Model Franchise Agreement between the City of Hamilton and Union Gas Limited (now owned by Enbridge Gas Inc.), dated March 28, 2007, as authorized under By-law No. 07-090, would address any and all crossing concerns.

Based on the foregoing, Public Works – Engineering Services Division – Geomatics and Corridor Management Section have no further comments or concerns.

***Source Water Protection Issues:***

Public Works – Hamilton Water – Source Protection Planning Section staff have advised that from a groundwater perspective:

**SUBJECT: Enbridge Gas Inc. Leave to Construct Application for the 2021 Dawn to Parkway Extension and Integrated Resource Planning Proposal (PED20053) (Wards 13 and 15) - Page 15 of 17**

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Stantec completed a desktop-based background review of the groundwater conditions. The report discusses anticipated potential impacts, includes the recommendation for the hydrostatic and wells impact assessment but no actual field work has been completed as part of this report.

The preferred route for the pipeline does not cross a wellhead protection area for a municipal drinking water well, but it crosses areas of Highly Vulnerable Aquifers (HVA) and Significant Groundwater Recharge as identified the Halton-Hamilton Source Protection Assessment Reports (2017).

Therefore, a Hydrological Assessment report shall be prepared to better characterize local conditions, existing well users, hydraulic conductivity, dewatering needs and assess potential impacts. Giving the fact that blasting and dewatering may be required, baseline water quality needs to also be documented.

The pipe crosses an area where the residents rely heavily on groundwater. More than this, it crosses the property of 3 year-round mobile homes. The on-site wells shall be part of the well survey and the monitoring program for before and during the time work is being completed. Any quality or quantity impacts need to be addressed. The local wells are considered GUDI so the above-mentioned sites use UV treatment technology for their drinking water systems that it is very sensitive in changes in turbidity levels.

A Mitigation and Protective plan should be in place and made available to the City and local residents.

Given the fact that the pipe crosses a HVA area characterized by fractured bedrock and shallow overburden, a Spill Plan that considers all the potential sources for contamination needs to be developed. Chemicals associated with the equipment and potential on-site diesel storage during the construction work shall be documented and monitored during the construction phase.

Hamilton Water has or is in the process to establish Municipal Responsibility Agreements for the mobile home sites identified above. The proposed work has the potential to impact the private services on these sites especially if there is the need for a larger easement. Ponderosa is currently looking at servicing alternatives based on centralized water and wastewater systems.

The site is already tight due to the presence of wetlands and other natural constraints and crossing more pipelines or a wider easement may significantly impact the serviceability of this site. Enbridge need to closely consult with the property owners on these sites and provide detailed site-specific drawings to ensure that these sites do no suffer undue economic hardship.

**SUBJECT: Enbridge Gas Inc. Leave to Construct Application for the 2021 Dawn to Parkway Extension and Integrated Resource Planning Proposal (PED20053) (Wards 13 and 15) - Page 16 of 17**

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Based on the foregoing, the following conditions of approval are requested:

- 1) That a Hydrological Assessment report shall be prepared to better characterize local conditions, existing well users, hydraulic conductivity, dewatering needs and assess potential impacts to the satisfaction of Public Works, Hamilton Water, Source Protection Planning. Of note, given the fact that blasting and dewatering may be required, the baseline water quality needs is to be documented.
- 2) That on-site wells shall form part of the well survey and the monitoring program for before and during the time work is being completed. Any quality or quantity impacts shall be addressed.
- 3) That a Mitigation and Protective plan be in place and made available to the City and local residents.
- 4) That a Spill Plan that considers all the potential sources for contamination be developed, whereby chemicals associated with the equipment and potential on-site diesel storage during the construction work shall be documented and monitored during the construction phase.
- 5) That Enbridge Gas Inc., consult with the property owners of the identified year-round mobile home sites; and, to provide detailed site-specific drawings to ensure that these sites do not suffer undue economic hardship.

***Climate Change Issues:***

As stated above in the above Policy Implications and Legislated Requirements, Hamilton City Council has declared a climate change emergency on March 27, 2019. Hamilton joins well over 800 other municipalities across the world, including the Government of Canada, who have declared a climate change emergency.

In order to reduce the catastrophic impacts of climate change the UN IPCC has stated the world needs to drastically reduce GHG emissions and become carbon neutral by 2050.

Given this the Air Quality and Climate Change Team within the Public Health Section of the Healthy and Safe Communities Department would like more information on how Enbridge plans to help meet these important targets. Specifically, the following interrogatories are requested:

- 1) How is Enbridge planning to help achieve Hamilton's community-wide GHG emission reduction targets?



**SUBJECT: Enbridge Gas Inc. Leave to Construct Application for the 2021 Dawn to Parkway Extension and Integrated Resource Planning Proposal (PED20053) (Wards 13 and 15) - Page 17 of 17**

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- 2) When and how does Enbridge plan to increase the supply of Renewable Natural Gas (RNG) within its existing network?

Notwithstanding the above, should the OEB decide to grant the proposed Leave to Construct, the following conditions of approval are requested, if submitted:

- 1) That a Health Equity Impact Assessment be completed by a qualified professional to determine potential for negative impacts on population health in Hamilton.

**ALTERNATIVES FOR CONSIDERATION**

- a) That the General Manager of Planning and Economic Development be authorized and directed to confirm the “Intervenor” status and subsequent acceptance of the Draft Issues List attached as Appendix A to Procedural Order 1; and, to confirm acceptance of the impacts related to the methods of upstream natural gas extraction (such as hydraulic fracturing) for natural gas that will be transported through the pipeline and impacts related to the ultimate downstream consumption of the natural gas transported through the pipeline as within the Scope of the Leave to Construct proceeding.
- b) That if the City chooses to proceed as a formal intervenor and fully participate in the hearing before the Energy Board. Such formal participation will require outside Counsel with experience before the Board to be engaged along with other expert consultants. In the event that the City so chooses, staff will provide an estimate of the funds that will need to be set aside to pay for outside representation and expert testimony.

**ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN**

**Economic Prosperity and Growth**

Hamilton has a prosperous and diverse local economy where people have opportunities to grow and develop.

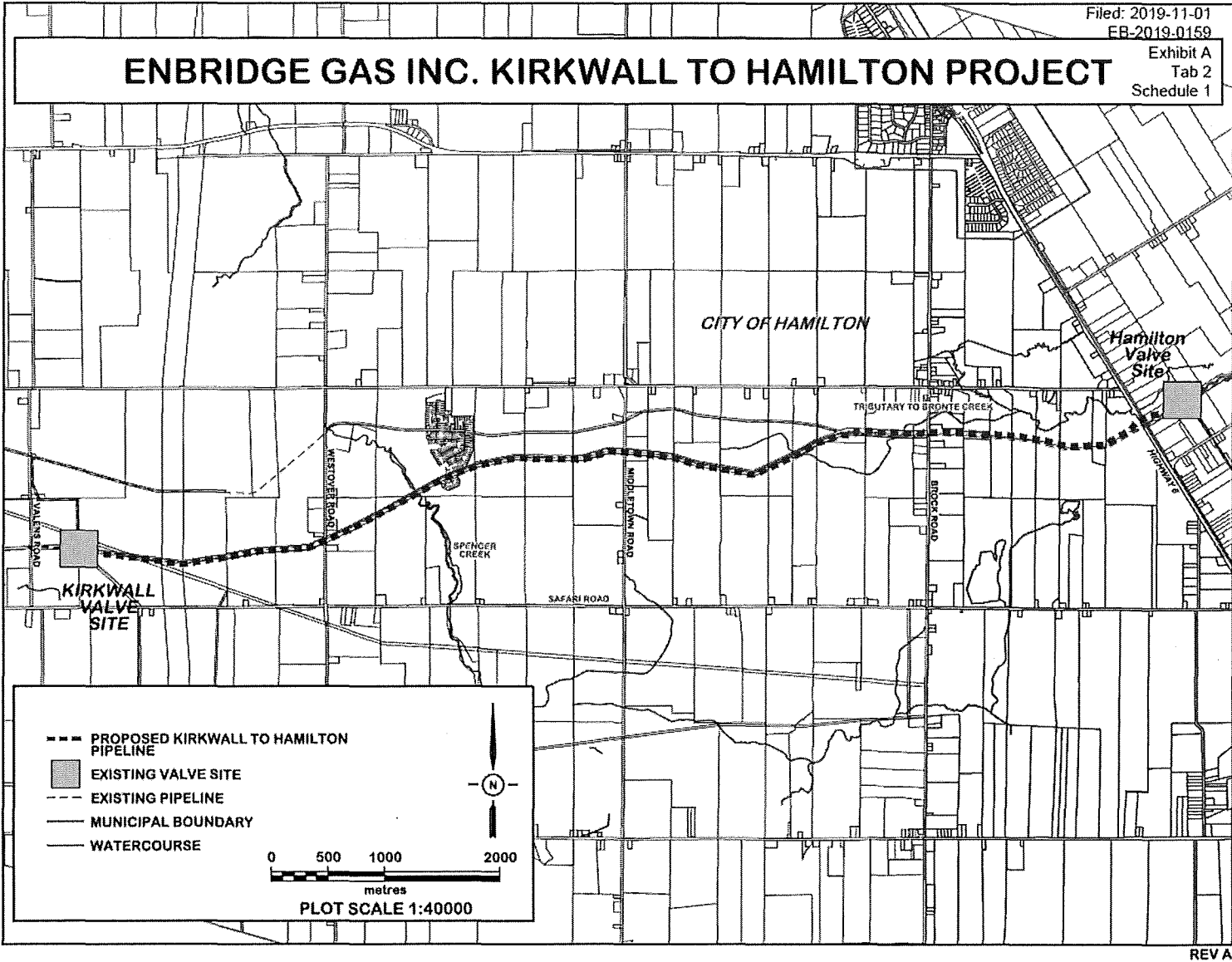
**Built Environment and Infrastructure**

Hamilton is supported by state of the art infrastructure, transportation options, buildings and public spaces that create a dynamic City.

**APPENDICES AND SCHEDULES ATTACHED**

Appendix “A” – Map of proposed 2021 Dawn to Parkway Extension

Appendix “B” – Ontario Energy Board Procedural Order – January 30, 2020.





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

EB-2019-0159

**Enbridge Gas Inc.**

**Application to construct natural gas pipeline and associated  
facilities in the City of Hamilton  
and**

**Request for review of Integrated Resource Plan (IRP) Proposal**

**PROCEDURAL ORDER NO. 1**

**January 30, 2020**

On November 1, 2019 Enbridge Gas Inc. (Enbridge Gas) filed an application with the Ontario Energy Board (OEB) pursuant to section 90(1) and 97 of the *Ontario Energy Board Act 1998, S.O. 1998, c.15 (Schedule B)* (OEB Act) (Leave to Construct Application) which includes the following:

- Leave to construct approximately 10.2 kilometers of 48 inch diameter natural gas transmission pipeline and associated facilities from the Kirkwall Valve Site to the Hamilton Valve Site in the City of Hamilton (Project).
- Approval of the forms of easement agreements related to the construction of the Project.

Enbridge Gas also included in the application an Integrated Resource Planning (IRP) Proposal and requested that the OEB determine it to be reasonable and appropriate.

The OEB issued a Notice of Application on January 6, 2020 (Notice). The Notice was published and served as directed by the OEB.

In this Procedural Order the OEB:

1. Determines that the IRP Proposal, as it relates to future Enbridge projects, will be reviewed separately at a later date to be determined by the OEB.
2. Sets the process to determine the scope of the hearing for the Leave to Construct Application.

### **Integrated Resource Planning (IRP) Proposal- Will be Reviewed Separately**

As part of its application and evidence, Enbridge Gas included an IRP Proposal and requested that the OEB determine that it is reasonable and appropriate as it relates to future Enbridge Gas projects. Enbridge Gas requested that, if the OEB cannot make a determination related to the IRP Proposal by April 30, 2020, the OEB review the IRP Proposal separately as a distinct stand-alone application from the Leave to Construct application to ensure that the Project meets the in-service date of November 1, 2021.

Enbridge Gas said that it filed the IRP Proposal in recognition of OEB direction in recent decisions on Leave to Construct applications and in the OEB's Report on the DSM Mid-Term Review, which required that Enbridge Gas demonstrate consideration of conservation and energy efficiency alternatives to infrastructure investments. The Proposal consists of an IRP framework to guide Enbridge Gas's assessment of future IRP applications relative to other facility and non-facility LTC alternatives.

The OEB is of the view that the IRP Proposal raises issues of broad applicability that are best dealt with outside of the context of a project-specific Leave to Construct proceeding. The OEB expects to provide further direction on the next steps regarding consideration of Enbridge Gas's IRP Proposal in the near future. The OEB has determined that Enbridge Gas's IRP Proposal should be heard separate and apart from the current Leave to Construct application proceeding.

### **Intervenor Requests and Letters of Comment – Issues and Concerns Raised**

The OEB received a number of requests for intervenor status which would, if granted, allow for active participation in all phases of the OEB's public review of the application. Parties asking for intervenor status submitted variously that their interests in participating in the proceeding relate to the need for the Project, cost and impacts of costs on ratepayers, security of gas supply, market based alternatives, conservation alternatives, transportation capacity, environmental and ecological impact of the Project, impacts on cultural heritage, impacts on municipal infrastructure, emergency response protocols, and impacts of the Project related to greenhouse gas (GHG) emissions and climate change. A number of intervenors stated that their intervention interest is in relation to the OEB's review of the IRP Proposal.

The OEB received numerous comments from individual citizens and citizens groups and organizations. Most of the comments voiced environmental concerns and opposition to constructing the Project. Many also requested an oral hearing. The environmental concerns generally related to two issues: (i) concerns with local site-specific impacts of the proposed pipeline on the ecologically sensitive wetlands and lands in the rural area within

the boundaries of the City of Hamilton, and (ii) broader concerns related to GHG emissions and climate change, related to both the upstream source of the natural gas that will be transported through the pipeline (some of which will be sourced from the Appalachian region of the United States, where hydraulic fracturing is common), and the downstream emissions that will result when the natural gas is ultimately consumed.

The OEB recognizes that there is significant interest in this proceeding. However, some of the issues identified by parties, in particular those in relation to the upstream and downstream impacts of natural gas extraction and consumption, are not commonly raised by parties or considered by the OEB in leave to construct proceedings. The OEB wishes to facilitate a meaningful and productive review of this application for Leave to Construct, but it is required to stay within the bounds of its statutory authority under the *Ontario Energy Board Act, 1998*. For these reasons, the OEB is seeking comments on the Issues List that will set the scope of this proceeding.

#### **Determining the Scope of the Proceeding – Leave to Construct Application**

As the first procedural step, the OEB will set out a process to determine the scope of the issues it will hear in the proceeding on Enbridge Gas's Leave to Construct application.

Ordinarily the OEB does not prepare an Issues List for a leave to construct application. The test established in section 96 of the OEB Act is whether the project is in the "public interest", and typically the OEB has considered more or less the same broad scope of issues in every case. Given the clear interest in this case in issues that have not typically been reviewed in the OEB's leave to construct hearings – in particular issues related to the upstream sourcing of the natural gas and the downstream use of natural gas – the OEB has determined that it would be appropriate to determine whether these issues are in scope for the proceeding at the outset. The OEB has prepared a draft Issues List (Draft Issues List) which is attached to this Procedural Order. Enbridge Gas, OEB staff, parties that submitted a request for intervenor status, and parties that filed letters of comment will be given an opportunity to file written submissions on the Draft Issues List.

In addition, the OEB would like to receive submissions on the extent to which it should consider a) impacts related to the methods of upstream natural gas extraction (such as hydraulic fracturing) for natural gas that will be transported through the pipeline, and b) impacts related to the ultimate downstream consumption of the natural gas transported through the pipeline.

After considering these comments, the OEB will render a decision on the Issues List to define the scope of the Leave to Construct proceeding.

Ontario Energy Board

EB-2019-0159  
Enbridge Gas Inc.

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**Decision on Intervenor Status and Cost Eligibility will be Made after the Scope is Determined**

The OEB will decide on intervenor requests and cost award eligibility requests after issuing a decision on the Issues List. Any party granted cost award eligibility will have an opportunity to include time spent on providing comments of the Draft Issues List.

**Oral versus Written Hearing**

A number of parties requested an oral hearing. The OEB will make this determination after issuing a decision on the Issues List. The OEB will schedule next procedural steps after it sets the scope of the proceeding.

It is necessary to make provision for the following matters related to this proceeding. The OEB may issue further procedural orders from time to time.

**IT IS THEREFORE ORDERED THAT:**

1. Enbridge Gas, parties that filed intervenor requests and parties that filed comments may file with the OEB by **February 10, 2020** written submissions on the following:
  - a. The Draft Issues List attached to Appendix A to this Procedural Order.
  - b. Whether the scope of the Leave to Construct proceeding should include:
    - i. impacts related to the methods of upstream natural gas extraction (such as hydraulic fracturing) for natural gas that will be transported through the pipeline
    - ii. impacts related to the ultimate downstream consumption of the natural gas transported through the pipeline.

Ontario Energy Board

EB-2019-0159  
Enbridge Gas Inc.

All materials filed with the OEB must quote the file number, **EB-2019-0159**, be made in a searchable/unrestricted PDF format and sent electronically through the OEB's web portal at <https://pes.ontarioenergyboard.ca/eservice>. Two paper copies must also be filed at the OEB's address provided below. Filings must clearly state the sender's name, postal address and telephone number, fax number and email address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <https://www.oeb.ca/industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have computer access are required to file seven paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 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, Zora Crnojacki at [Zora.Crnojacki@oeb.ca](mailto:Zora.Crnojacki@oeb.ca) and Board Counsel, Michael Millar at [Michael.Millar@oeb.ca](mailto:Michael.Millar@oeb.ca).

#### **ADDRESS**

Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27th Floor  
Toronto ON M4P 1E4  
Attention: Board Secretary

E-mail: [boardsec@oeb.ca](mailto:boardsec@oeb.ca)  
Tel: 1-888-632-6273 (Toll free)  
Fax: 416-440-7656

**DATED** at Toronto, January 30, 2020

**ONTARIO ENERGY BOARD**

*Original signed by*

Christine E. Long  
Board Secretary

**Appendix A**

**Procedural Order No. 1**

**Enbridge Gas Inc.**

**EB-2019-0159**

**Draft Issues List-Section 90 OEB Act, Leave to Construct Application**

**January 30, 2020**



**Enbridge Gas Inc.  
EB-2019-0159**

**Draft Issues List-Section 90 OEB Act  
Leave to Construct Application**

1. Is the proposed Project needed? Considerations may include but are not limited to natural gas demand, reliability of service, security, flexibility and diversity of natural gas supply, and operational risk as well as the OEB's statutory objectives.
2. What are the alternatives to the proposed Project that would also involve building a new pipeline? Are any of these alternatives preferable to the proposed Project?
3. What are the alternatives to the proposed Project that would not involve building a new pipeline? Are any of these alternatives preferable to the proposed Project?
4. Do the Project's economics meet the OEB's economic tests as outlined in the Filing Guidelines on the Economic Tests for Transmission Pipeline Applications, dated February 21, 2013?
5. Are the costs of the Project and rate impacts to customers reasonable and acceptable?
6. Does the Project's environmental assessment meet the OEB Environmental Guidelines for Hydrocarbon Pipelines?
7. Are the forms of landowner agreements filed pursuant to the application under section 97 of the OEB Act appropriate? Are there any outstanding landowner matters for the proposed Project's routing and construction? For greater clarity, landowners include parties from whom permits, crossing agreements and other approvals are required.
8. Is the proposed Project designed in accordance with current technical and safety requirements?
9. Has there been adequate consultation with affected Indigenous communities?
10. If the Board approves the proposed Project, what conditions, if any, are appropriate?