



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Growth Management Division

TO:	Mayor and Members Committee of the Whole
COMMITTEE DATE:	May 27, 2020
SUBJECT/REPORT NO:	Ontario Energy Board Notice of Hearing for Enbridge Gas Inc.'s Integrated Resource Planning Proposal – OEB File Number: EB-2020-0091 (PED20103) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Guy Paparella (905) 546-2424 Ext. 5807 Alvin Chan (905) 546-2424 Ext. 2978
SUBMITTED BY: SIGNATURE:	Tony Sergi Senior Director, Growth Management Planning and Economic Development Department

RECOMMENDATION

- (a) That it be confirmed that the General Manager of Planning and Economic Development maintain “Intervenor” status with the Ontario Energy Board pertaining to file EB-2020-0091, in respect of the Enbridge Gas Inc.’s Integrated Resource Planning Proposal;
- (b) That the General Manager of Planning and Economic Development be authorized and directed to file interrogatories and respond to any interrogatories in accordance with any Procedural Order(s) of the Ontario Energy Board, for file EB-2020-0091 in respect of the Enbridge Gas Inc.’s Integrated Resource Planning Proposal;
- (c) That it be confirmed that no outside consultants will be retained and therefore no evidence will be submitted to the Ontario Energy Board as it pertains to file EB-2020-0091, in respect of the Enbridge Gas Inc.’s Integrated Resource Planning Proposal.

EXECUTIVE SUMMARY

Enbridge Gas Inc. (“Enbridge”) had applied to the Ontario Energy Board (“OEB”) for Leave 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; and, for approval of an Integrated Resource Planning Proposal (“IRP”) under File Number EB-2019-0159.

Per Procedural Order #1 of OEB File Number EB-2019-0159 dated January 30, 2020, the Board ordered that the IRP proposal be reviewed separately at a later date.

Accordingly, on April 28, 2020, the OEB issued a Notice of Hearing for Enbridge Gas Inc.’s Integrated Resource Planning Proposal under File Number: EB-2020-0091 (attached as Appendix “A” to Report PED20103). It should be noted that the IRP Proposal covers additional applications the City of Hamilton did not participate in, being OEB Files EB-2017-0306 and EB-2019-003.

An IRP is a planning process that evaluates and compares realistic natural gas supply-side and demand-side options. The demand-side options identify solutions that reduce natural gas in-franchise peak period demand growth to defer or avoid future transmission and distribution system facility expansion/reinforcement projects. The potential range of IRP alternatives could include demand response, enhanced targeted energy efficiency, compressed natural gas, and low-carbon and non-gas solutions.

Page 4, paragraph 1 of the Order, parties interested in participating as intervenors in this proceeding should indicate their intent by filing a letter with the OEB by May 13, 2020.

Of additional note, page 4, paragraph 2, albeit the City is an “Intervenor” under the Enbridge Gas Inc. Application for Leave to Construct the 2021 Dawn to Parkway Expansion Project, interested parties must still submit a new request for intervention status and cost eligibility (if desired) that is specific to the IRP Proposal proceeding.

Accordingly, due to the OEB deadline staff have requested “Intervenor” status and recommend that it be confirmed that the General Manager of Planning and Economic Development maintain “Intervenor” status; and be authorized to file interrogatories and respond to any interrogatories in accordance with any Procedural Order(s) with the OEB pertaining to file EB-2020-0091, in respect of the Enbridge Gas Integrated Resource Planning Proposal in accordance with Recommendations (a) and (b) of Report PED20103.

Lastly, due to associated financial costs and anticipated timelines for review and submissions, it is recommended that no outside consultants be retained. As a result, it is anticipated that no expert evidence would be submitted by the City to the OEB. Rather, the City would rely upon its in-house capacity to review and comment on evidence; and, for filing and responding to interrogatories, per Recommendation (c) of this Report PED20103.

Alternatives for Consideration – See Page 6

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: If alternative Recommendation (c) is approved by Council, the City will be affirming retaining outside counsel and consultants in representing the City's concerns. The costs associated is unknown.

Staffing: In house staff do not have the expertise in the matters under the Integrated Resource Planning Proposal but will continue to review and comment on any materials within their subject matter expertise.

Legal: The OEB will hold a public hearing to consider the application for Enbridge Gas Inc.'s IRP Proposal.

If alternative Recommendation (c) is approved by Council, the City will be affirming retaining 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.

Per Procedural Order #1 of OEB File Number EB-2019-0159 dated January 30, 2020, the Board ordered that the IRP Proposal be reviewed separately at a later date. Accordingly, on April 28, 2020, the OEB issued a Notice of Hearing for Enbridge Gas Integrated Resource Planning Proposal under File Number: EB-2020-0091 (attached as Appendix "A" to Report PED20103). It should be noted that the IRP Proposal covers additional applications the City of Hamilton did not participate in, being OEB Files EB-2017-0306; and EB-2019-003.

Accordingly, per the Notice of Hearing attached as Appendix “A” to Report PED20103, page 4, paragraph 1, parties interested in participating as intervenors in this proceeding should indicate their intent by filing a letter with the OEB by May 13, 2020.

Additionally, page 4, paragraph 2, albeit the City is an “Intervenor” under the Enbridge Gas Inc. Application for Leave to Construct the 2021 Dawn to Parkway Expansion Project, interested parties must still submit a new request for intervention status and cost eligibility (if desired) that is specific to the IRP Proposal proceeding.

Accordingly, staff provides the detailed review and analysis below, and the corresponding Recommendations noted above.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

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.

An IRP is a planning process that evaluates and compares realistic natural gas supply-side and demand-side options. The demand-side options identify solutions that reduce natural gas in-franchise peak period demand growth to defer or avoid future transmission and distribution system facility expansion/reinforcement projects. The potential range of IRP alternatives could include demand response, enhanced targeted energy efficiency, compressed natural gas, and low-carbon and non-gas solutions.

Enbridge Gas Inc.’s IRP Proposal included sections related to the goals of IRP, what types of IRP alternatives should be considered, which infrastructure projects should require consideration of IRP alternatives, how IRP alternatives should be assessed and compared with infrastructure projects and proposed mechanisms for approval and cost recovery of IRP projects.

As noted in Enbridge Gas Inc.’s IRP Proposal, the OEB has previously considered the role of IRP, and specifically the potential for natural gas demand-side management (DSM) to defer or avoid capital investments in infrastructure, in several Leave to Construct decisions, and in the OEB’s oversight of natural gas DSM, for Enbridge Gas and its predecessors, Enbridge Gas Distribution (EGD) and Union Gas (Union).

Page 3 of the Notice of Hearing, attached as Appendix “A” to Report PED20103, the OEB proposes the following approach to Enbridge Gas’ IRP Proposal.

In particular, the OEB intends to address Enbridge Gas' IRP Proposal through an oral hearing, with the Enbridge Gas' IRP Proposal forming the initial evidence for this proceeding.

In turn, the OEB will establish an Issues List to set out the scope of this proceeding. OEB staff will develop a draft Issues List for circulation to the parties for comment once interventions have been approved.

Additionally, the OEB understands that OEB staff may seek to file expert evidence on alternatives to natural gas infrastructure. The OEB will consider requests from parties to file expert evidence that does not duplicate any evidence to be filed by OEB staff, once the Issues List has been established.

Lastly, the OEB expects that this hearing will address the specific elements of Enbridge Gas' IRP Proposal, and will also consider the broader issues of whether Enbridge Gas' IRP Proposal adequately responds to previous OEB direction and guidance on IRP, and whether Enbridge Gas' IRP Proposal necessitates consequential changes to any other OEB policies, codes, or guidelines.

In light of the above process, the OEB has requested per page 4 of the Notice, attached as Appendix "A" to Report PED20103, parties interested in participating as intervenors in this proceeding, including those registered as an "Intervenor" under the Enbridge Gas Inc. Application for Leave to Construct the 2021 Dawn to Parkway Expansion Project, should indicate their intent by filing a letter with the OEB by May 13, 2020.

Accordingly, staff recommend that it be confirmed that the General Manager of Planning and Economic Development maintain "Intervenor" status; and be authorized to file interrogatories and respond to any interrogatories in accordance with any Procedural Order(s) with the OEB pertaining to file EB-2020-0091, in respect of the Enbridge Gas Inc.'s Integrated Resource Planning Proposal.

Lastly, due to associated financial costs and anticipated timelines for review and submissions, it is recommended that no outside consultants be retained. As a result, it is anticipated that no expert evidence would be submitted by the City to the OEB. Rather, the City would rely upon its in-house capacity to review and comment on evidence; and, for filing and responding to interrogatories.

RELEVANT CONSULTATION

- City Manager's Office – Legal and Risk Management Services Division.

As the OEB has not yet established the Issues List, review and comment by staff is limited at this time.

Notwithstanding, staff have extracted the original components pertaining to the IRP Proposal from the Enbridge Leave to Construct Application related to the 2021 Dawn to Parkway Extension; and, has circulated these materials for review and comment by staff that make up the Pipeline Technical Advisory Team.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

As noted above, Recommendation (a) is to address the current request of the OEB Notice of Hearing, attached as Appendix “A” to Report PED20103, whereby any parties interested in participating as intervenors in this proceeding, including those registered as an “Intervenor” under the Enbridge Gas Inc. Application for Leave to Construct the 2021 Dawn to Parkway Expansion Project, should indicate their intent by filing a letter with the OEB by May 13, 2020.

In discussion with the OEB, the request for “Intervenor” status would allow the City to receive any evidence submitted for this Application; to file interrogatories in response to evidence; and, to respond to any interrogatories filed to the City, It will also allow the City to participate in the hearing, if desired, but it is not required for the City to retain outside counsel or expertise to submit evidence.

Based on the foregoing, staff recommend that it be confirmed that the General Manager of Planning and Economic Development maintain “Intervenor” status; and be authorized to file interrogatories and respond to any interrogatories in accordance with any Procedural Order(s) with the OEB pertaining to file EB-2020-0091, in respect of the Enbridge Gas Integrated Resource Planning Proposal per Recommendations (a) and (b) to this Report PED20103.

Lastly, due to associated financial costs and anticipated timelines for review and submissions, it is recommended that no outside consultants be retained. As a result, it is anticipated that no expert evidence would be submitted by the City to the OEB. Rather, the City would rely upon its in-house capacity to review and comment on evidence; and, for filing and responding to interrogatories, per Recommendation (c) of this Report PED20103.

ALTERNATIVES FOR CONSIDERATION

The alternative to Recommendation (a) is to withdraw “Intervenor” status with the OEB pertaining to file EB-2020-0091, in respect of the Enbridge Gas Integrated Resource Planning Proposal.

This would make the City a participant by which the City may sign up to receive documents issued by the Board; however not all documents related to the proceeding are forwarded, only documents issued by the board. The City would also be limited to a single “Letter of Comment” to the OEB for consideration by the OEB in its decision.

Based on the foregoing, it is recommended that it be confirmed that the City maintain Intervenor status; otherwise, staff would have no notice of any new documents posted for the above noted Application; would need to perform daily regulatory document searches to maintain up-to-date information; and, would be limited to a single submission to the OEB.

With respect to Recommendation (b), given current experiences with the Enbridge Gas Inc. Application for Leave to Construct the 2021 Dawn to Parkway Expansion Project, and the respective deadlines of related Procedural Order(s) along with internal timelines for committee and Council, it is recommended that staff be authorized to review, comment, file and respond to interrogatories in accordance with any future Procedural Order(s),

Without such authorization, staff cannot ensure sufficient time to review, present to Committee and Council; and, meet the respective deadlines of any OEB Procedural Orders pertaining to OEB issued documents; evidence, interrogatories and responses to interrogatories related to this OEB Application.

Accordingly, staff recommend that staff be authorized and directed to file interrogatories and respond to any interrogatories in accordance with any Procedural Order(s) of the OEB, for file EB-2020-0091 in respect of the Enbridge Gas Integrated Resource Planning Proposal.

Finally, regarding Recommendation (c), the alternative would be to retain outside expertise and counsel for participation in the OEB hearing. Staff are not experts in these fields and cannot advise on the qualifications or time required to find a suitable consultant, the time required for completion of work by any retained outside consultant, and meeting of any OEB Procedural Orders and deadlines.

Additionally, such outside expertise would represent a significant financial commitment that has not been accounted for and would therefore have unknown financial impacts.

Lastly, in previous discussions with the OEB Project Advisor, maintaining “Intervenor” status would allow the City to continue to receive and respond to any new evidence filed with the OEB, with no obligation for the City to retain outside expertise for submission of any evidence.

Based on the foregoing, staff recommend that no outside consultants will be retained and therefore no evidence will be submitted to the OEB as it pertains to file EB-2020-0091, in respect of the Enbridge Gas Integrated Resource Planning Proposal.

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” - Ontario Energy Board Notice of Hearing – April 28, 2020.

Appendix “B” - Letter of Response to OEB Notice of Hearing

AC/GP/sd