

# Enbridge Feedback on Bill 222, Ontario Rebuilding and Recovery Act, 2020

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Written Submission to the Ontario Environmental Registry of Ontario Posting

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## Executive Summary

Enbridge appreciates the opportunity to provide feedback on the Government of Ontario's Bill 222, *Ontario Rebuilding and Recovery Act, 2020* (the Bill). This submission builds on the previous comments Enbridge Gas submitted to the Standing Committee of Social Policy in June 2020 for Bill 171, *Building Transit Faster Act* as well as our ongoing dialogue with government, industry and local partners to help deliver the four priority subway projects in a timely and cost-effective manner.

We know the City of Toronto and Government of Ontario are in need of priority transit projects and Enbridge will be a helpful partner in ensuring that happens. Enbridge has significant experience working with Metrolinx on previous transportation relocation projects. In our comments below you will find Enbridge's comments, suggestions, requests for clarification and questions for all three Schedules outlined in the Bill, Schedule 1, *Building Transit Faster Act, 2020*; Schedule 2, *Public Service Works on Highways Act*; Schedule 3, *Transit-Oriented Communities Act, 2020*. Enbridge believes that the changes outlined below will make the Bill stronger and clearer for those involved in the relocation of utility infrastructure for priority transit projects.

## About Enbridge<sup>1</sup>

Enbridge's perspective is built on our role as North America's premier energy infrastructure company, with strategic interests across a range of energy solutions. We safely deliver an average of 2.9 million barrels of crude oil each day and we move roughly 22% of all natural gas consumed in the U.S. Enbridge Pipelines Inc. operates the Enbridge Mainline System (i.e. liquids pipelines) which is an interprovincial pipeline system federally regulated by the Canada Energy Regulator. As such, Enbridge Pipelines Inc. is not a "utility company" as that term is defined in the *Building Transit Faster Act, 2020*.

Our regulated utilities, including Enbridge Gas, serve approximately 3.7 million customers in Ontario and Quebec. We are also involved in electricity infrastructure with interests in more than 2,000 MW of net renewable generating capacity, and an expanding offshore wind portfolio in Europe.

Enbridge is a large employer with over 4,500 Ontario-based employees and is a significant economic driver in the province. In 2019, Enbridge invested over \$900 million in capital expenditures in Ontario (e.g. items such as pipe steel, system integrity-related investments, and capital leases) and \$1.55 billion in operating and administrative expenditures in 2019 (e.g. maintenance costs, equipment leases, power consumption and personnel salaries and wages). In Ontario alone, Enbridge creates \$156.6 million in tax revenues. This revenue can be used for schools, infrastructure, health and wellness, recreation, transportation and other services that help strengthen the fabric of Ontario communities.

## Targeted Feedback on Schedule 1: Building Transit Faster Act, 2020 Proposed Legislation Change

Enbridge Gas, Infrastructure Ontario, Metrolinx and the province have been working collaboratively towards achieving many positive outcomes on the current four priority transit projects. Enbridge Gas has successfully worked with Metrolinx on transit projects in the past and understands what is required for utility infrastructure relocations and protection. Enbridge Gas would like to be able to leverage the existing agreements that are in place currently with the priority transit projects and the GO Agreement and any new projects identified under the proposed changes to the *Building Transit Faster Act, 2020*.

As previously mentioned, Enbridge has a positive working relationship with Metrolinx and would like to continue that with all additional projects that are added under the *Building Transit Faster Act, 2020*, therefore we are looking for assurance that all future priority transit projects are going to be delivered under Metrolinx. This would create

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<sup>1</sup> "Enbridge" refers to Enbridge Inc. and its subsidiary companies.

consistency for all projects. If they are not being delivered under Metrolinx, Enbridge would be looking for clarification on:

- What other parties or agencies will be delivering any new projects added into the *Building Transit Faster Act*? What governance and controls will be put in place to allow them to be able to do so?
- How would Enbridge be informed on which projects are included in the *Building Transit Fast Act*?

Enbridge is requesting clarity on the following items:

- Who decides which transit projects are provincially significant that would be added into the *Building Transit Faster Act*? What would the criteria be for those considered?
- Is there a current list of projects that are being considered for inclusion into the *Building Transit Faster Act, 2020*?

We require this information in order to be able to identify geographic areas of the forecasted work and prioritize and acquire additional Enbridge Gas and contractor resources for those projects newly added.

## Targeted Feedback on Schedule 2: Public Service Works on Highways Act (PSWHA) Proposed Legislation Change

Enbridge Gas requires clarification on whether the changes to the PSWHA apply to only transit or all PSWHA projects. The proposed remedy of allowing a road authority to carry out utility work (i.e. relocation of pipelines that distribute natural gas) is a significant safety concern. Enbridge Gas and its predecessor Consumer Gas has been distributing gas to consumers in Ontario for over 160 years. Enbridge is the largest energy distribution company in Ontario, reaching more than 3.7 million residential, commercial and industrial natural gas customers. Natural gas has unparalleled reliability and provides almost 3.5 times as much peak energy as electricity for Ontarians when they need it the most. Ontario's electrical grid does not have the capacity to displace natural gas for heating if the gas network is impacted in a local area. A house heated with electricity needs 3 times the capacity (15 kwh) versus a house heated with gas (5 kwh). On an average day, natural gas still provides more than twice as much energy as electricity.

One of the core values at Enbridge Gas is to ensure the safe and reliable delivery of natural gas. Relocating pipeline infrastructure requires substantial expertise in the natural gas industry as well as significant experience in working with a number of regulatory agencies such as the Ontario Energy Board (OEB) and Technical Standards and Safety Authority. Allowing the road authority to relocate utility work would pose a significant risk to the public. In addition to the safety concerns there are public policy issues that arise from allowing a road authority to work on a regulated pipeline. The OEB is responsible for regulating energy and ensuring the interests of consumers are protected and that energy companies are following the rules. If road authorities are working on utilities, how do we ensure that the interest of the consumer are protected? For example, how do we ensure that there is adequate cost recovery for undertaking work on a utility and that the costs are shared fairly with consumers? There are also a number of logistical concerns that are tied in. Therefore, Enbridge strongly suggests having a judge authorize a road-authority to complete work on behalf of a utility company be removed from the Bill.

Enbridge Gas believes that the previous provision in the PSWHA should be added back in allowing a judge to give a utility company more time to comply with a notice if there are physical or technical difficulties to comply.

## Targeted Feedback on Schedule 3: Transit-Oriented Communities Act Proposed Legislation Change

In regards to the updated definition of "transit-oriented community project":

((2) "transit-oriented community project" means a development project of any nature or kind and for any usage in connection with the construction or operation of a station that is part of a priority transit project, and

includes a development project located on transit corridor land within the meaning of the Building Transit Faster Act, 2020.)

Enbridge Gas requires clarification on how the expropriation of land will continue to work. Will utility company easements that are currently in place continue to stay valid or will the expropriation process supersede and cancel the existing easement?

The proposed definition under the “Delegation to Metrolinx” Enbridge believes could cause many unknowns and potential issues:

(4) The Minister may, by regulation, delegate the Minister’s powers under subsection (1) in whole or in part to any of the following entities, subject to any conditions and restrictions set out in the regulation:

1. Metrolinx.

2. A public body, within the meaning of the Public Service of Ontario Act, 2006, that is prescribed for the purpose of this section by the Lieutenant Governor in Council.

This is extremely broad and would put a lot of unknowns for utility companies having to relocate. Enbridge supports working with Metrolinx as it would continue to bring consistency with it. The issue/clarification is with Part (2) which could give the powers of the Minister to “a public body” and could allow a municipality or other authority to use measures that were intended as a backstop for the Minister to use. This could cause unnecessary delays and unfair penalties, which is why clarification is needed. Enbridge also requests clarity on what the notification process will be to identify and communicate transit-oriented communities to provide appropriate service and support to the transit oriented communities.

## Conclusion

Enbridge appreciates the opportunity to provide feedback on Bill 222, *Ontario Rebuilding and Recovery Act, 2020*. As North America’s premier energy infrastructure company and a significant contributor to Ontario’s economic growth, we remain committed to continue working with the Government of Ontario, Metrolinx and our local partners to help deliver Ontario’s priority transit projects. While we are helpful partners in this process, there are points of clarification in the Bill that are required as well as some suggested changes. We would be happy to meet with you to discuss these points further.

## Contact

If you have any questions or require additional information please do not hesitate to contact Nicole Gruythuyzen, Senior Advisor Government Affairs ([nicole.gruythuyzen@enbridge.com](mailto:nicole.gruythuyzen@enbridge.com)).