

Enbridge Gas Feedback on Proposed Change to Ontario Regulation 328/03 – Leave to Construct Cost Threshold for Hydrocarbon Pipelines

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About Enbridge Gas Inc.

Enbridge Gas is Canada's largest natural gas storage, transmission and distribution company based in Ontario, with more than 170 years of service to customers. The distribution business provides safe, affordable, reliable energy to about 3.8 million homes, businesses and industries and is leading the transition to a clean energy future through net-zero emissions targets and investments in innovative low-carbon energy solutions. The storage and transmission business offers a variety of storage and transportation services to customers at the Dawn Hub, the largest integrated underground storage facility in Canada and one of the largest in North America. Enbridge Gas is owned by Enbridge Inc., a Canadian-based leader in energy transportation and distribution. Learn more at enbridgegas.com.

Executive Summary

Enbridge Gas would like to reiterate its support of the Government of Ontario's (Government) proposed changes to Ontario Regulation 328/03 (the regulation) under the *Ontario Energy Board Act, 1998 (Act)*, to increase the cost threshold for hydrocarbon pipelines that require Ontario Energy Board (OEB) approval through its Leave to Construct (LTC) process under section 90 of the Act, from \$2 million to \$10 million. Enbridge Gas provided feedback in April 2021 (April Submission) in response to the Government's posting.

The proposal to increase the threshold from \$2 million to \$10 million is necessary given the threshold was established over 25 years ago and requires modernization to allow for regulatory efficiency. The proposed change does not preclude other provincial requirements from having to be met including land and environmental screenings, permits, consultations with municipalities and Indigenous consultation.

In addition to increasing the cost threshold, Enbridge Gas continues to recommend that the Government consider modifying the thresholds as set out in the April Submission (i.e., increase the pipe size LTC threshold from NPS 12 to NPS 16 and the operating pressure from 2,000 to 3,600 kilopascals (kPa)).

Enbridge appreciates the clarity provided in the posting that section 90(2) of the Act will remain unchanged as Enbridge Gas relies upon this provision for many of its relocation projects.

Timeline

It is helpful for Enbridge Gas' project planning process that the Government has proposed a date that the regulation change will take effect (i.e., January 1, 2022, subject to a later filing with the Registrar of Regulations). Enbridge Gas reiterates its request that the proposed change take effect as soon as possible, preferably no later than January 1, 2022, so that Enbridge Gas can refine its proposed schedules for the many projects currently in development (including community expansion projects). A lack of certainty about the effective date of the change could lead to unnecessary delay and increased costs for these projects, noting that projects have many different moving parts and evidence for an LTC application may take months to prepare. This certainty is also necessary to enable Enbridge Gas and other project proponents to communicate clearly with local customers and communities and manage regulatory workloads in coordination with the OEB and other authorities as required.

Increasing Pipe Size and Operating Pressure

Further to the April Submission, the focus of LTC proceedings should be on projects proposing larger diameter transmission pipelines rather than on routine distribution pipeline projects that do not meet the cost threshold and are typically situated in existing road allowances. This is why Enbridge Gas recommends increasing the pipe size threshold in section 90(1)(c) of the Act to NPS 16 and increasing the operating pressure to 3,600 kPa. Enbridge Gas has many existing distribution pipelines or sections of distribution pipelines that are NPS 12 and operate between 2,000 kPa and 3,600 kPa, especially near the tie-in to stations. The way that section 90(1)(c) of the Act is worded, if any part of a proposed hydrocarbon line meets the NPS and pressure threshold, an LTC may be required, even for a very small project of nominal cost. Increasing the pipeline size and operating pressure thresholds would appropriately put LTC consideration on projects other than routine distribution system repairs and expansions.

Regulatory Efficiency to Support Priority Natural Gas and Transit Projects

We look forward to continuing to work with the Government and the OEB to ensure Ontario's regulatory environment supports timely investments and customer connections for the Government's Natural Gas Expansion Program Phase 2 projects. To highlight the impact of the regulation change, with the current \$2 million threshold, 24 projects would require an LTC, if the threshold is raised to \$10 million only 7

projects would require one. Additionally, most of the province's priority transit projects will fall below the \$10 million proposed threshold mitigating potential cost and schedule implications. The proposed \$10 million threshold will improve project delivery timelines for both community expansion projects as well as relocations for the province's priority transit projects, enabling needed regulatory efficiency for smaller community expansion, pipeline or system reliability while allowing the OEB to focus its oversight and resources on larger and more complex projects.

Enbridge Gas' Commitment to Ongoing Indigenous Consultation

As explained in the April Submission, Enbridge Gas recognizes the importance of reconciliation between Indigenous communities and broader society. Enbridge Gas will continue to engage local and Indigenous communities potentially affected by our pipeline projects regardless of the financial threshold. In absence of a requirement to file an LTC application, there may still be triggers for Indigenous consultation from other Departments and Agencies (e.g., for Permits to Take Water, Archeology). Regardless of whether the duty to consult is triggered, Enbridge Gas will engage with Indigenous groups potentially affected by our projects and operations.

Enbridge's Indigenous Peoples Policy guides our approach to pursuing sustainable relationships with Indigenous Nations and groups in proximity to where Enbridge conducts business. To achieve sustainable relationships with Indigenous Nations and groups Enbridge governs itself by five principles that include:

- Recognizing legal and constitutional rights possessed by Indigenous peoples;
- Recognizing the importance of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) within the context of existing Canadian law;
- Engaging in forthright and sincere consultation with Indigenous Peoples about Enbridge's projects and operations through processes that seek to achieve early and meaningful engagement;
- Committing to working with Indigenous Peoples to achieve benefits for them resulting from Enbridge's projects and operations; and
- Fostering an understanding of the history and culture of Indigenous Peoples among Enbridge's employees and contractors.

Through our commitment to relationship building with Indigenous groups in Ontario, Enbridge Gas has developed a deeper understanding of areas of interest raised by various Indigenous communities and we work to ensure we meaningfully engage with communities to avoid or mitigate any impacts our projects or operations may have on their rights and interests.

Conclusion

Enbridge Gas looks forward to continuing to work with Government, industry partners and local communities to ensure Ontario's regulatory environment supports timely investments and customer connections in a manner that is cost effective and supports the Government's economic recovery efforts without compromising the environment, Indigenous consultation or safety. Expanding the scope of the LTC review by increasing the financial threshold to \$10 million modernizes the OEB regulatory regime with no detrimental impacts on safety, environmental permitting, and municipal and Indigenous consultation.

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).