



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

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# DECISION AND ORDER

## EB-2023-0175

### ENBRIDGE GAS INC.

**Application for leave to construct natural gas pipeline and associated facilities in the Municipality of Brooke-Alvinston and the Township of Warwick and for a new Certificate of Public Convenience and Necessity for the Township of Warwick**

**BEFORE: Patrick Moran**  
Presiding Commissioner

**Anthony Zlatic**  
Commissioner

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**March 7, 2024**

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# 1 OVERVIEW

On August 1, 2023, Enbridge Gas Inc. (Enbridge Gas) applied to the Ontario Energy Board (OEB), under section 90 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B) (OEB Act), for an order granting leave to construct approximately 15.3 kilometres of natural gas pipeline and associated facilities in the Township of Warwick and the Municipality of Brooke-Alvinston (the Project). Enbridge Gas also applied under section 97 of the OEB Act for approval of the form of easement agreement and temporary land use agreement it offers to landowners for the routing and construction of the proposed pipeline.

The Project will connect Waste Management of Canada Corporation's (Waste Management) planned Twin Creeks Environmental Centre Renewable Natural Gas (RNG) facility to Enbridge Gas's network. In addition, Enbridge Gas plans to construct an RNG injection station. The general location of the Project is shown on the map in Schedule A to this Decision and Order.

Enbridge Gas also applied for approval under section 8 of the *Municipal Franchises Act* for a new certificate of public convenience and necessity for the Township of Warwick.

The OEB grants leave to construct the Project subject to the conditions of approval contained in Schedule B of this Decision and Order. The capital cost of the Project will be paid by the connecting customer, Waste Management, at no risk to other ratepayers. The OEB also approves the forms of easement agreement and temporary land use agreements proposed by Enbridge Gas.

The OEB also finds that it is in the public interest to approve Enbridge Gas's application for a new certificate of public convenience and necessity for the Township of Warwick.

## 2 PROCESS

The OEB held a written hearing to consider this application. A Notice of Hearing was issued on September 7, 2023. Pollution Probe and Three Fires Group Inc. (Three Fires Group) applied for and were granted intervenor status and cost eligibility.

On October 4, 2023, the OEB issued Procedural Order No. 1 setting the timeline for the proceeding. In accordance with the procedural schedule, written interrogatories by OEB staff, Pollution Probe and Three Fires Group were filed by October 31, 2023. Enbridge Gas responded to interrogatories on November 16, 2023.

OEB staff, Pollution Probe and Three Fires Group filed written submissions on November 30, 2023. Enbridge Gas filed a written reply submission on December 14, 2023.

### 3 REQUEST FOR LEAVE TO CONSTRUCT

Consistent with the [OEB's Standard Issues List](#) for natural gas leave to construct applications, the decision is structured to address the following issues:

1. Project Need
2. Project Alternatives
3. Project Cost and Economics
4. Environmental Impacts
5. Land Matters
6. Indigenous Consultation
7. Conditions of Approval

#### 3.1 Project Need

Waste Management plans to construct and operate RNG facilities at the Twin Creeks Environmental Centre and requested that Enbridge Gas construct new pipeline facilities to facilitate the injection of RNG supply volumes produced at the facility. There are currently no existing Enbridge Gas pipelines in the immediate vicinity of the Twin Creeks Environmental Centre. The nearest pipelines are designed at pressures of 420 kPag and 3,450 kPag and cannot accommodate the injection of the volume of RNG requested by Waste Management. The Project will connect Waste Management's planned RNG facility at the Twin Creeks Environmental Centre to Enbridge Gas's existing natural gas system. Enbridge Gas stated that the project is designed to meet the needs of Waste Management and is not dependent on any future or previously filed leave to construct applications.

The Project need is underpinned by the service contract executed between Enbridge Gas and Waste Management, effective April 19, 2023. The contract includes a provision for a monthly surcharge to be paid by Waste Management for the term of the contract.

OEB staff submitted that the Project is designed to meet the needs of Waste Management and is supported by the service contract between Waste Management and Enbridge Gas.

#### Findings

The OEB finds that Enbridge Gas has adequately demonstrated a need to construct new pipeline facilities to accommodate Waste Management's planned RNG facility. The

Project will facilitate the injection of RNG supply into Enbridge Gas's existing local distribution system to meet the transportation requirements of Waste Management.

### 3.2 Project Alternatives

Enbridge Gas stated that it applied the Integrated Resource Planning (IRP) Binary Screening Criteria and determined that the Project meets the definition of a Customer-Specific Build, as defined in the IRP Framework:

**Customer-Specific Builds** – If an identified system need has been underpinned by a specific customer's (or group of customers') clear request for a facility project and either the choice to pay a Contribution in Aid of Construction (CIAC) or to contract for long-term firm services delivered by such facilities, then an IRP evaluation is not required.<sup>1</sup>

The Project is driven solely by Waste Management's request to connect to Enbridge Gas's distribution system.

Enbridge Gas stated that the only existing system in the area that can facilitate the RNG injection volumes requested by Waste Management is 15.3 km away from the Twin Creeks Environmental Centre and that there are no other feasible facility alternatives to meet Waste Management's need. Enbridge Gas explained that the nearest pipelines are designed at pressures ranging from 420 kPag to 3,450 kPag and cannot accommodate the volume of RNG requested by Waste Management. Enbridge Gas also explained that the proposed 6-inch nominal pipeline size (NPS) is required for Waste Management to have unimpeded access to their maximum flow rate of 7,661 m<sup>3</sup>/hr.<sup>2</sup>

Enbridge Gas stated that it considered a number of potential routes for the Project. However, the proposed route is the preferred route from an environmental, socio-economic and technical perspective. The Environmental Report<sup>3</sup> noted that the preferred route passes the fewest businesses and residences; is in proximity to the fewest ecological land communities and potential significant wildlife habitats; and is not within 125 metres of a heritage property or adjacent to a burial site/cemetery.

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<sup>1</sup> [EB-2020-0091](#), Decision and Order, July 22, 2021, Appendix A

<sup>2</sup> Enbridge Gas Reply Submission, page 11, paragraph 24

<sup>3</sup> Application and Evidence, Exhibit F, Tab 1, Schedule 1, Attachment 1

OEB staff submitted that the Project is the best alternative to meet the stated need and that the proposed route is acceptable.

Three Fires Group submitted that there needs to be broader understanding of what constitutes the public interest in leave to construct applications and that newer actors should be afforded the opportunity to understand their full range of options in terms of locations and available alternative service providers. Three Fires Group requested that the OEB's decision note that project proponents should consider evidence relating to the public interest in the broader sense including evidence relating to the alternatives that the underlying energy producer had available to it.

In its reply submission, Enbridge Gas stated that Waste Management's need is best addressed by the proposed Project and that it adequately addressed all viable alternatives.

## Findings

The OEB finds that Enbridge Gas has undertaken an appropriate review of alternatives and potential routes for the Project and finds that the proposed route is the preferred route from an environmental and socio-economic perspective.

### 3.3 Project Cost and Economics

Enbridge Gas estimated the total cost of the Project to be \$20.4 million. The itemized estimate of the Project costs is set out in Table 1 below.

**Table 1: Estimated Project Costs (\$)**

Item No.	Description	Pipeline Costs	Ancillary Costs	Total Costs
1	Material Costs	3,512,922	970,000	4,482,922
2	Labour Costs	5,804,428	849,548	6,653,977
3	External Permitting & Land	332,000	10,000	342,000
4	Outside Services	2,483,617	1,077,927	3,561,543
5	Direct Overheads	517,007	163,002	680,009
6	Contingency Costs	3,288,993	798,324	4,087,317
7	Direct Capital Costs	15,938,967	3,868,800	19,807,768
8	Indirect Overheads	-	-	-
9	Interest During Construction	435,937	127,537	563,474
10	Total Project Costs	16,374,904	3,996,337	20,371,242

Enbridge Gas included a 24% contingency applied to all direct capital costs and stated that the contingency amount is consistent with similar projects approved by the OEB.

Enbridge Gas and Waste Management have executed a long-term M13 service contract for the Project. The contract includes a monthly service charge of \$166,146 to be paid by Waste Management. The contract also has a provision for the true-up of the monthly service charge based on actual costs.

Enbridge Gas stated that the Project will result in incremental annual operation & maintenance (O&M) costs.

In response to an OEB staff interrogatory, Enbridge Gas confirmed that the monthly service charge will be recalculated in a manner that ensures that the total final actual project costs will be recovered from Waste Management. Enbridge Gas also confirmed that Waste Management's contractual obligations ensure that regardless of the duration of the operation of the RNG facility, the total actual Project cost will be recovered from Waste Management.<sup>4</sup>

In its submission, OEB staff accepted the evidence filed by Enbridge Gas and the interrogatory response confirming that the Project costs will be fully paid by Waste Management and not borne by other ratepayers. OEB staff recommended a condition of approval that requires Enbridge Gas to confirm that the actual Project final costs are fully funded by Waste Management and not by ratepayers.

Pollution Probe submitted that there is additional risk associated with the collection of funds for this project in comparison to a similar RNG project given that Waste Management is being allowed by Enbridge to pay a monthly fee instead of a lump sum Contribution in Aid of Construction (CIAC). Pollution Probe also submitted that Enbridge Gas is proposing service rate changes impacting RNG injection services as part of its 2024 rebasing application<sup>5</sup> and it is unclear if the changes will have an impact on Waste Management or its contract. Pollution Probe recommended that the OEB approve the Project given that Waste Management has agreed to pay the capital costs and will pay the related annual O&M costs.

In its reply submission, Enbridge Gas submitted that any rate matters (including changes to M13 rates and charges) as well as the capital expenditure forecast proposed in the 2024 rebasing application exceed the scope of this proceeding and are more appropriately addressed as part of the rebasing proceeding. Enbridge Gas also submitted that the evidence demonstrates that the Project costs are reasonable and

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<sup>4</sup> Enbridge Gas Response to OEB Staff 4-b)

<sup>5</sup> EB-2022-0200



that the Project is economically feasible as it is fully funded by Waste Management and will not result in additional costs borne by existing ratepayers.

## Findings

The OEB finds that, as all actual Project costs will be recovered from Waste Management through the monthly CIAC surcharge and on-going costs will be recovered by Enbridge Gas through its M13 contract with Waste Management, there will be no impact to other ratepayers. The OEB accepts that the Project costs are reasonable in the circumstances of this proceeding, including the fact that Waste Management did not dispute the costs it will bear. The risk of cost recovery is a matter between Enbridge Gas and Waste Management, and it will not be open to Enbridge Gas to seek recovery of any aspect of the capital cost of this Project from other ratepayers.

### 3.4 Environmental Impacts

Dillion Consulting Ltd. (Dillon) was retained by Enbridge Gas to undertake an environmental and cumulative effects assessment (Study) for the Project, to select the preferred route. The results of the Study are documented in the Environmental Report included in the application. The Environmental Report includes input from the consultation program that was implemented for the Project.

The Environmental Report was circulated to members of the Ontario Pipeline Coordinating Committee (OPCC), Lambton County, the St. Clair Region Conservation Authority, the Brooke-Alvinston Council and the Township of Warwick. Enbridge Gas filed an update to the comments received on the Environmental Report in its response to OEB staff interrogatories.<sup>6</sup>

A Stage 1 Archeological Assessment of the study area was completed. Enbridge Gas stated that it expects to have a Cultural Heritage Report: Existing Conditions and Preliminary Impact Assessment and Stage 2 Archeological Assessment completed and reviewed by the Ministry of Culture and Multiculturalism prior to the commencement of Project construction.

Enbridge Gas stated that it will develop an Environmental Protection Plan that incorporates all of the recommended mitigation measures in the Environmental Report and any mitigation measures obtained by agency consultation.

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<sup>6</sup> Enbridge Gas Response to OEB Staff 5a)- g)

In its response to OEB staff interrogatories, Enbridge Gas provided an update on the status and expected timing for all permits and approvals and stated that there are no foreseeable delays.<sup>7</sup> Enbridge Gas stated that using the mitigation measures found in the Environmental Report, Environmental Protection Plan and additional mitigation measures provided by the regulatory agencies through the permitting and approval process (if received), no significant effects from the construction and operation of the Project are anticipated.

OEB staff submitted that Enbridge Gas completed the Environmental Report in accordance with the OEB's [Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario](#) (Environmental Guidelines). OEB staff had no concerns with the environmental aspects of the Project, based on Enbridge Gas's commitment to implement the mitigation measures set out in the Environmental Report and to complete the Environmental Protection Plan prior to the start of construction. OEB staff noted that the proposed conditions of approval require Enbridge Gas to obtain all necessary approvals, permits, licences, and certificates needed to construct, operate and maintain the Project and ensure that impacts of pipeline construction are mitigated and monitored.

Three Fires Group submitted that there are deficiencies in Enbridge Gas's approach to mitigating environmental impacts from the Project and outlined specific concerns relating to: suspect soils; groundwater; aquatic habitats; wildlife and wildlife habitats; ongoing monitoring of fugitive emissions and species at risk; miscellaneous notifications and protection; and site restoration. Three Fires Group requested relief from the OEB in respect to any orders approving the application (e.g., requirement for Enbridge Gas to supplement several of its environmental protection activities with additional commitments, measures and/or monitoring, etc.).

In its reply submission, Enbridge Gas submitted that the mitigation measures it has identified and committed to were informed by Indigenous consultation. Enbridge also submitted that the mitigation measures address the type of concerns identified in Three Fires Group's submission. Enbridge Gas submitted that the request by Three Fires Group for relief pertaining to additional mitigation measures, plans for monitoring and testing and reporting are not required given the mitigation measures already identified and the applicable regulatory and permitting requirements for the Project. Enbridge Gas further submitted that there is no need for additional formal comment processes to be completed prior to implementation of necessary plans and procedures given the consultation on the Project to date, the commitment of Enbridge Gas to ongoing

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<sup>7</sup> Enbridge Gas Response to OEB Staff 5-g)

consultation on the Project throughout the Project lifecycle and the appropriateness of the mitigation measures proposed and committed to by Enbridge Gas.

## Findings

The OEB finds that Enbridge Gas has completed the Environmental Report in accordance with the OEB's Environmental Guidelines. The OEB further finds that Enbridge Gas's commitment to implement the mitigation measures set out in the Environmental Report and its commitment to complete an Environmental Protection Plan prior to the start of construction provide sufficient measures to ensure that any adverse impacts from pipeline construction will be mitigated and monitored.

### 3.5 Land Matters

Enbridge Gas stated that the majority of the Project route will be located in the public road allowance. Temporary working areas will be required where the road allowance is too narrow or confined to facilitate construction. Enbridge Gas also stated that permanent easement will be required for the project.

Enbridge Gas filed forms of temporary land use<sup>8</sup> and permanent easement<sup>9</sup> agreements. The same forms of easement were approved by the OEB in a prior proceeding for the Ridge Landfill project.<sup>10</sup>

In response to OEB staff interrogatories, Enbridge Gas stated that it has initiated negotiations with landowners where easement is required. Enbridge Gas stated that if there are delays it may consider it alternative plans for construction using available road allowance to prevent impacts to the in-service date.<sup>11</sup>

OEB staff submitted that the OEB should approve the proposed forms of easement and temporary land use agreements as both were previously approved by the OEB.

## Findings

The OEB approves the proposed forms of permanent easement and temporary land use agreements. Both forms have been previously approved by the OEB. The OEB requires that, in accordance with the standard conditions, Enbridge Gas will obtain all

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<sup>8</sup> Application and Evidence, Exhibit G, Tab 1, Schedule 1, Attachment 2

<sup>9</sup> Application and Evidence, Exhibit G, Tab 1, Schedule 1, Attachment 3

<sup>10</sup> [EB-2022-0203](#)

<sup>11</sup> Enbridge Gas Response to OEB Staff 7c) and 7d)

approvals, permits, licences and certificates required to construct, operate and maintain the project.

### 3.6 Indigenous Consultation

In the Delegation Letter<sup>12</sup>, the Ministry of Energy (MOE) identified the following Indigenous communities that Enbridge Gas should consult in relation to the Project:

- Aamjiwnaang First Nation (AFN)
- Bkejwanong (Walpole Island First Nation) (WIFN)
- Chippewas of Kettle and Stony Point First Nation (CKSPFN)
- Chippewas of the Thames First Nation (COTTFN)
- Oneida Nation of the Thames (Oneida Nation)

Direct notice of the application was provided to the five Indigenous communities listed above.

Three Fires Group, an Indigenous business corporation that represents CKSPFN, is an intervenor in the proceeding. In its intervention request, Three Fires Group stated that the traditional territory of, and associated rights and interests of, the First Nations it represents may be impacted by the outcomes of this proceeding.

Pursuant to the 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>13</sup> In a response to OEB staff interrogatories, Enbridge Gas filed an updated Indigenous consultation log.<sup>14</sup>

Three Fires Group submitted that there are significant shortcomings in Enbridge Gas's application regarding Indigenous consultation, which is most visible in the Environmental Report. Three Fires group submitted that the Environmental Report contains virtually no mention of the history of First Nations in the Project area and that going forward, Enbridge Gas must improve its Indigenous consultation practices by, at a minimum, incorporating the histories and opinions of First Nations into its initial application materials, including environmental reports. Three Fires Group made several

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<sup>12</sup> Enbridge Gas received a Delegation Letter from the Ministry of Energy on November 10, 2022, indicating that the Ministry had delegated the procedural aspects of consultation to Enbridge Gas for the Project. The Delegation Letter identified 5 Indigenous communities to be consulted. A copy of the Delegation Letter is provided in Exhibit H, Tab 1, Schedule 1, Attachment 2

<sup>13</sup> Application and Evidence, Exhibit H, Tab 1, Schedule 1

<sup>14</sup> Enbridge Gas Response to OEB Staff 8 d) and 8 e)

requests for relief in respect to the proposed construction plan and environmental safeguards.

OEB staff submitted that Enbridge Gas appears to have made efforts to engage with affected Indigenous communities and was not aware of any concerns that could materially affect the Project that have been raised through Enbridge Gas's consultation to date. OEB staff observed that Enbridge Gas appears to be cooperating with the Indigenous communities during the consultation process and that it made certain commitments to the Indigenous communities related to the Project. OEB staff stated that it was not aware of any potential adverse impacts of the Project to any Aboriginal or treaty rights.

In its reply submission, Enbridge Gas submitted that Three Fires Group's submission unfairly diminishes efforts made by Enbridge Gas in the context of the Environmental Report and through ongoing consultation with potentially affected Indigenous communities, to understand Indigenous history in the project area and concerns. Enbridge Gas submitted that the Archeological Assessment, included as an appendix to the Environmental Report, provides significant details on the history of the Project area. Enbridge Gas further submitted that with respect to CKSPFN's history in the area, it sought to understand how the Project might affect Indigenous rights and interests and whether planned mitigation was appropriate in the circumstances or whether certain additional measures were in order.

On January 4, 2024, Enbridge Gas filed an updated application, with the Letter of Opinion it received from the MOE. The Letter of Opinion stated that the MOE completed its review of Enbridge Gas's consultation report for the Project and had reached out to the Indigenous communities identified about concerns raised and/or proposed mitigation and was satisfied with the procedural aspects of the consultation undertaken by Enbridge Gas.<sup>15</sup>

## 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 discharged sufficiently to allow it to approve the Project. This finding is also supported by the Ministry's Letter of Opinion regarding the consultations undertaken by Enbridge Gas.

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<sup>15</sup> Application and Evidence, Exhibit H, Tab 1, Schedule 1, Attachment 3

Based on the consultation records filed, Enbridge Gas provided a reasonable opportunity for the Indigenous communities to engage in meaningful consultation about the application. The OEB has also been assisted by the participation of the Three Fires Group. The OEB is satisfied that any potential impacts to rights raised by Three Fires Group have and will be mitigated through the Environmental Report, Environmental Protection Plan and the conditions of approval.

### **3.7 Conditions of Approval**

Section 32 of the OEB Act permits the OEB, when making an order, to impose conditions as it considers appropriate.

As part of its interrogatories, OEB staff suggested that the OEB's standard conditions of approval for leave to construct applications should apply to the Project with a modification to Condition 6<sup>16</sup>, requiring the applicant to confirm that the actual final Project costs are fully funded by the monthly service charge paid to Enbridge Gas by Waste Management. Enbridge Gas agreed with the suggestion.

Three Fires Group proposed several conditions of approval related to the post-approval conduct for the Project.

Pollution Probe submitted that there should be a condition of approval requiring the Technical Standards and Safety Authority (TSSA) to provide its final review letter prior to construction and that it be filed on the public record.

OEB staff submitted that the OEB should approve the Project subject to the conditions of approval attached as Schedule A to its submission.

In its reply submission, Enbridge Gas stated that it would comply with the final conditions of approval established by the OEB.

### **Findings**

The OEB accepts the conditions of approval proposed by OEB staff and accepted by Enbridge Gas.

Three Fires Group has requested several conditions of approval that address next steps related to archeological and environmental reports prior to Project implementation and recourse to the OEB should certain disputes arise. As a general proposition, the OEB is

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<sup>16</sup> Now condition 7 in schedule B

satisfied that Enbridge Gas has appropriately met the OEB's Environmental Guidelines in respect of environmental impacts and Indigenous consultation for the reasons set out in sections 3.4 and 3.6 above. The Project is mostly located in road allowances and adequate mitigation measures have been committed to as set out in the Environmental Report and Enbridge Gas will be developing an Environmental Protection Plan for the Project.

Enbridge Gas has stated its commitment to ongoing Indigenous consultation during the lifecycle of the Project and the OEB expects that it will fulfill this commitment. The OEB requires Enbridge Gas to provide Three Fires Group with its draft Environmental Protection Plan for comment prior to implementation as described in a new requirement under section 5 of the conditions of approval.

The OEB observes that Three Fires Group's submission identifies that Enbridge Gas could have taken greater care in providing more fulsome responses to concerns raised by Three Fires Group through its interrogatories. Further, Three Fires Group's submission signals that there is potential for Enbridge Gas and the Three Fires Group to improve their respective collaboration efforts and two-way dialogue. To facilitate meaningful collaboration, the OEB encourages Enbridge Gas to either directly or through its contractors employ representatives of the Three Fires Group and other affected Indigenous communities to participate as monitors for archeological and environmental matters during construction and post construction site restoration and to provide reasonable capacity funding. Equally, should Enbridge Gas implement a monitoring program, the OEB encourages the Three Fires Group to participate in developing and implementing such a program. The OEB has observed that Indigenous construction and post-construction environmental monitoring programs have been successfully developed and executed for Ontario infrastructure projects and that it has provided project proponents and relevant Indigenous communities a means to amicably resolve compliance issues with approved mitigation measures on site and to foster building capacity for both parties. Should Enbridge Gas implement such a monitoring program, the OEB directs Enbridge Gas to report on this program as described in a new reporting requirement under section 8(b)(vi) of the conditions of approval.

The OEB finds that a specific condition of approval requiring a final review letter from the TSSA is not needed as this is covered by section 3 of the conditions of approval. Further, the OEB will not require that such letter be placed on the public record.

## 4 REQUEST FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Enbridge Gas applied for an order cancelling and superseding the existing certificate of public convenience and necessity held by Enbridge Gas for the former Village of Watford and the former Township of Warwick and replacing it with a new certificate of public convenience and necessity to construct works to supply gas in the Township of Warwick as it is currently constituted.

Enbridge Gas holds a certificate dated August 25, 1965<sup>17</sup>, authorizing it to serve the geographic areas of the former Township of Warwick and the former Village of Watford. Enbridge Gas noted that the boundaries of the Township of Warwick have changed since the certificate was issued due to the amalgamation of the Township of Warwick and former Village of Watford in 1998 and other municipal restructuring.<sup>18</sup>

In response to an OEB staff interrogatory, Enbridge Gas confirmed that it holds certificates and franchises for the municipalities that are immediately adjacent to the Township of Warwick and that the certificate request does not affect another person's certificate rights.<sup>19</sup>

OEB staff submitted that the OEB should approve Enbridge Gas's request to cancel and supersede the existing certificate for the Township of Warwick dated August 25, 1965, with a new certificate that aligns to the current boundaries of the Township of Warwick.

Pollution Probe submitted that is not aware of any reason why the OEB should not approve the Certificate of Public Convenience and Necessity changes requested by Enbridge Gas.

### Findings

The OEB finds that it is in the public interest to approve Enbridge Gas's application for a new certificate for the Township of Warwick.

A new certificate, attached as Schedule C to this Decision and Order, is granted to Enbridge Gas for the Township of Warwick. This certificate cancels and supersedes Enbridge Gas's prior certificate authorizations for the former Township of Warwick, and

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<sup>17</sup> E.B.C 42

<sup>18</sup> Exhibit A, Tab 2, Schedule 1, Pages 3 and 4

<sup>19</sup> Enbridge Gas Response to OEB Staff 10-a)



the former Village of Watford. The new certificate is geographically aligned with the current municipal boundaries of the Township of Warwick.

## 5 ORDER

### THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Enbridge Gas Inc. is granted leave, pursuant to section 90(1) of the OEB Act, to construct the Project in the Municipality of Brooke-Alvinston and Township of Warwick as described in its application.
2. Pursuant to section 97 of the OEB Act, the OEB approves the form of Easement Agreement and Form of Temporary Land Use Agreement that Enbridge Gas Inc. has offered or will offer to each owner of land affected by the Project.
3. Leave to construct is subject to Enbridge Gas Inc. complying with the Conditions of Approval set out in Schedule B.
4. Parties in receipt of confidential information shall either return the subject information to the Registrar and communicate to Enbridge Gas Inc. that they have done so; or destroy or expunge the information and execute a Certificate of Destruction, following the end of this proceeding, in accordance with the OEB's *Practice Direction on Confidential Filings*. The Certificate must be filed with the Registrar and a copy sent to Enbridge Gas Inc.
5. A certificate of public convenience and necessity, attached as Schedule C, is granted to Enbridge Gas Inc. to construct works or supply natural gas in the Township of Warwick. A current map of the Township of Warwick is attached as Schedule D. This certificate of public convenience and necessity cancels and supersedes E.B.C 42 (former Township of Warwick and former Village of Watford)
6. Eligible intervenors shall file with the OEB and forward to Enbridge Gas Inc. their respective cost claims in accordance with the OEB's Practice Direction on Cost Awards on or before March 21, 2024
7. Enbridge Gas Inc. shall file with the OEB and forward to intervenors any objections to the claimed costs of the intervenors on or before March 28, 2024
8. If Enbridge Gas Inc. objects to any intervenor costs, those intervenors shall file with the OEB and forward to Enbridge Gas Inc. their responses, if any, to the objections to cost claims on or before April 4, 2024.

Enbridge Gas Inc. shall pay the OEB's costs incidental to this proceeding upon receipt of the OEB's invoice.

Parties are responsible for ensuring that any documents they file with the OEB, such as applicant and intervenor evidence, interrogatories and responses to interrogatories or any other type of document, **do not include personal information** (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's [Rules of Practice and Procedure](#).

Please quote file number, **EB-2023-0175**, for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the [OEB's online filing portal](#).

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address.
- Please use the document naming conventions and document submission standards outlined in the [Regulatory Electronic Submission System \(RESS\) Document Guidelines](#) found at the [File documents online page](#) on the OEB's website.
- Parties are encouraged to use RESS. Those who have not yet [set up an account](#), or require assistance using the online filing portal can contact [registrar@oeb.ca](mailto:registrar@oeb.ca) for assistance.
- Cost claims are filed through the OEB's online filing portal. Please visit the [File documents online page](#) of the OEB's website for more information. All participants shall download a copy of their submitted cost claim and serve it on all required parties as per the [Practice Direction on Cost Awards](#).

All communications should be directed to the attention of the Registrar and be received by end of business, 4:45 p.m., on the required date.

Email: [registrar@oeb.ca](mailto:registrar@oeb.ca)

Tel: 1-877-632-2727 (Toll free)

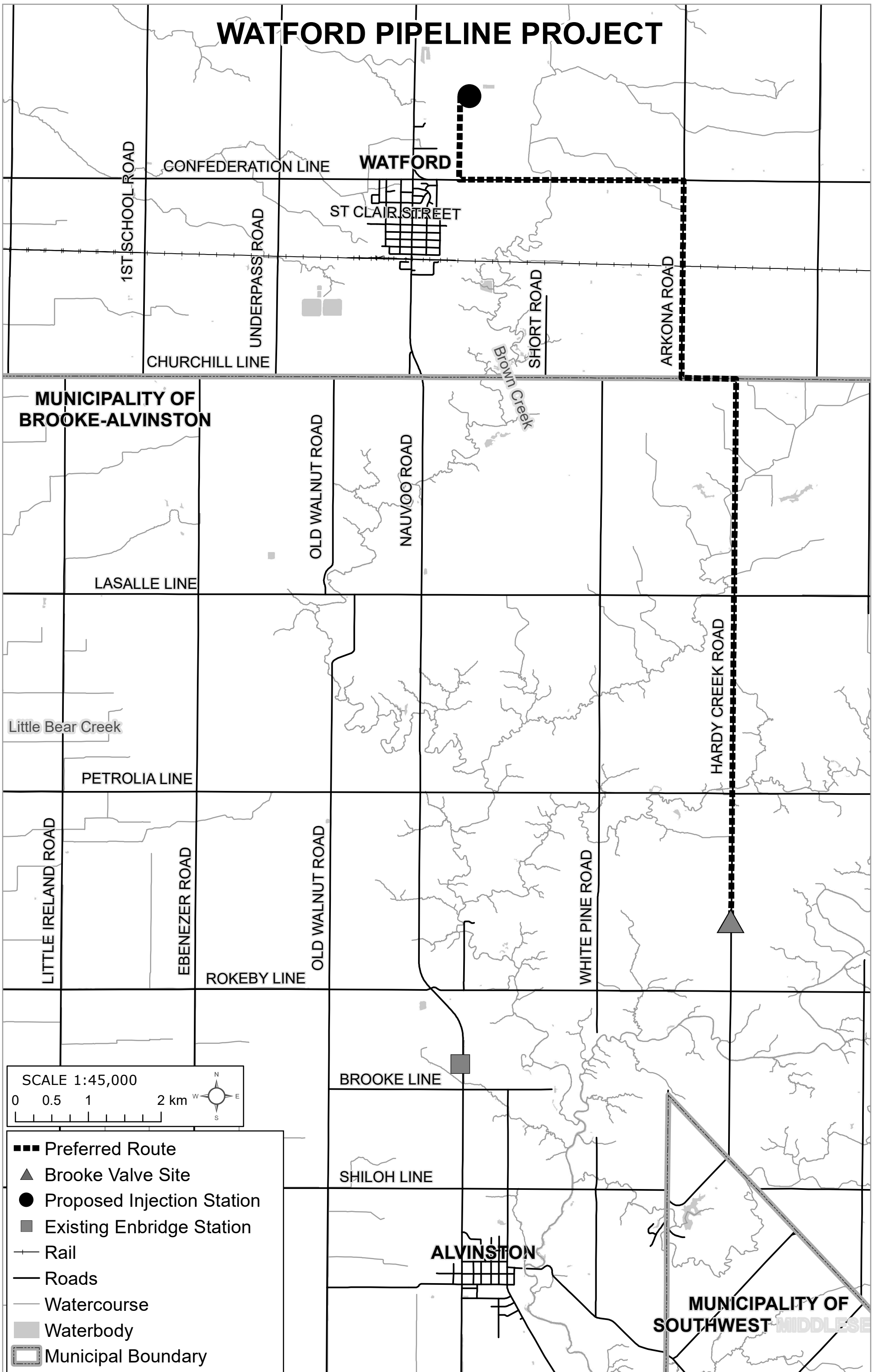
**DATED** at Toronto March 7, 2024

**ONTARIO ENERGY BOARD**

Nancy Marconi  
Registrar

**SCHEDULE A**  
**DECISION AND ORDER**  
**ENBRIDGE GAS INC.**  
**EB-2023-0175**  
**MARCH 7, 2024**

# WATFORD PIPELINE PROJECT



SCALE 1:45,000



- Preferred Route
- ▲ Brooke Valve Site
- Proposed Injection Station
- Existing Enbridge Station
- Rail
- Roads
- Watercourse
- Waterbody
- Municipal Boundary

**SCHEDULE B**  
**DECISION AND ORDER**  
**ENBRIDGE GAS INC.**  
**EB-2023-0175**  
**MARCH 7, 2024**

**Leave to Construct Application under  
Section 90(1) of the OEB Act**

**Enbridge Gas Inc.  
EB-2023-0175**

**Conditions of Approval**

1. Enbridge Gas Inc. shall construct the facilities and restore the land in accordance with the OEB's Decision and Order in EB-2023-0175 and these Conditions of Approval.
2. (a) Authorization for leave to construct shall terminate 12 months after the decision is issued unless construction has commenced prior to that date.  
(b) Enbridge Gas Inc. 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 planned in-service date, at least 10 days prior to the date the facilities go into service
  - iii. of the date on which construction was completed, no later than 10 days following the completion of construction
  - iv. of the in-service date, no later than 10 days after the facilities go into service
3. Enbridge Gas Inc. shall obtain all necessary approvals, permits, licences, certificates, agreements and rights required to construct, operate and maintain the project.
4. Enbridge Gas Inc. shall implement all the recommendations of the Environmental Report filed in the proceeding, and all the recommendations and directives identified by the Ontario Pipeline Coordinating Committee review.
5. Enbridge Gas shall provide Three Fires Group with its draft Environmental Protection Plan for comment prior to implementation.
6. Enbridge Gas Inc. shall advise the OEB of any proposed change to OEB-approved construction or restoration procedures. Except in an emergency, Enbridge Gas Inc. shall not make any such change without prior notice to and written approval of the OEB. In the event of an emergency, the OEB shall be informed immediately after the fact.
7. Concurrent with the final monitoring report referred to in Condition 8(b), Enbridge Gas Inc. shall file a Post Construction Financial Report, that:

- (a) provides a variance analysis of project cost, schedule and scope compared to the estimates filed in this proceeding, including the extent to which the project contingency was utilized
- (b) confirms that the actual final project costs will be fully funded by the monthly service charge to be paid by Waste Management of Canada Corporation.

Enbridge Gas Inc. shall also file a copy of the Post Construction Financial Report in the proceeding where Enbridge Gas Inc. proposes to start collecting revenues associated with the project.

8. Both during and after construction, Enbridge Gas Inc. shall monitor the impacts of construction, and shall file with the OEB one electronic (searchable PDF) version of each of the following reports:

- (a) A post construction report, within three months of the in-service date, which shall:
  - i. provide a certification, by a senior executive of the company, of Enbridge Gas Inc.'s adherence to Condition 1
  - ii. describe any impacts and outstanding concerns identified during construction
  - iii. describe the actions taken or planned to be taken to prevent or mitigate any identified impacts of construction
  - iv. include a log of all complaints received by Enbridge Gas Inc., including the date/time the complaint was received, a description of the complaint, any actions taken to address the complaint, the rationale for taking such actions
  - v. provide a certification, by a senior executive of the company, that the company has obtained all other approvals, permits, licenses, and certificates required to construct, operate, and maintain the proposed project
- (b) A final monitoring report, no later than fifteen months after the in-service date, or, where the deadline falls between December 1 and May 31, the following June 1, which shall:
  - i. provide a certification, by a senior executive of the company, of Enbridge Gas Inc.'s adherence to Condition 4
  - ii. describe the condition of any rehabilitated land
  - iii. describe the effectiveness of any actions taken to prevent or mitigate any identified impacts of construction
  - iv. include the results of analyses and monitoring programs and any recommendations arising therefrom



- v. include a log of all complaints received by Enbridge Gas Inc., including the date/time the complaint was received; a description of the complaint; any actions taken to address the complaint; and the rationale for taking such actions
  - vi. if a monitoring program is implemented, describe the monitoring program identifying the affected Indigenous communities employed on-site, and the capacity funding provided in connection with archeological and environmental matters during construction and post construction site restoration activities
9. Enbridge Gas Inc. 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.

**SCHEDULE C**  
**DECISION AND ORDER**  
**ENBRIDGE GAS INC**  
**EB-2023-0175**  
**MARCH 7, 2024**

**EB-2023-0175**

## **Certificate of Public Convenience and Necessity**

The Ontario Energy Board grants

### **Enbridge Gas Inc.**

approval under section 8 of the *Municipal Franchises Act*, R.S.O. 1990, c. M.55, as amended, to construct works to supply natural gas in the

### **Township of Warwick**

as it is constituted on the date of this Decision and Order.

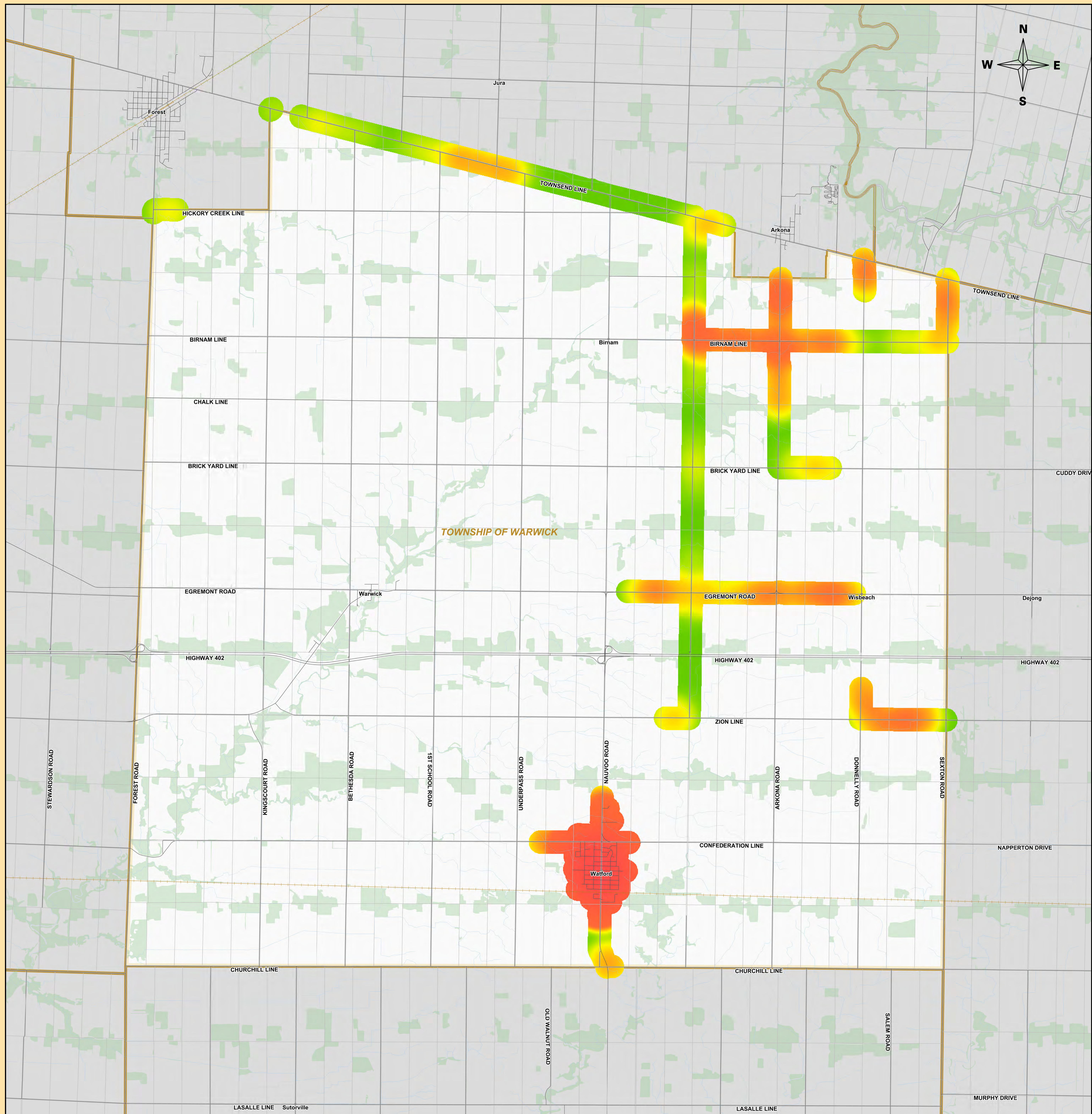
This certificate of public convenience and necessity cancels and supersedes: E.B.C 42 (former Township of Warwick and former Village of Watford),

**DATED** at Toronto, March 7, 2024

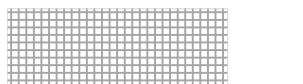





**ONTARIO ENERGY BOARD**

Nancy Marconi  
Registrar

**SCHEDULE D**  
**DECISION AND ORDER**  
**ENBRIDGE GAS INC**  
**EB-2023-0175**  
**MARCH 7, 2024**



**Legend**

-  Enbridge Gas Pipeline Coverage Area
-  Township of Warwick
-  Roads
-  Railways
-  Municipal and Township Boundaries
-  First Nation Boundaries

**Customer Density**

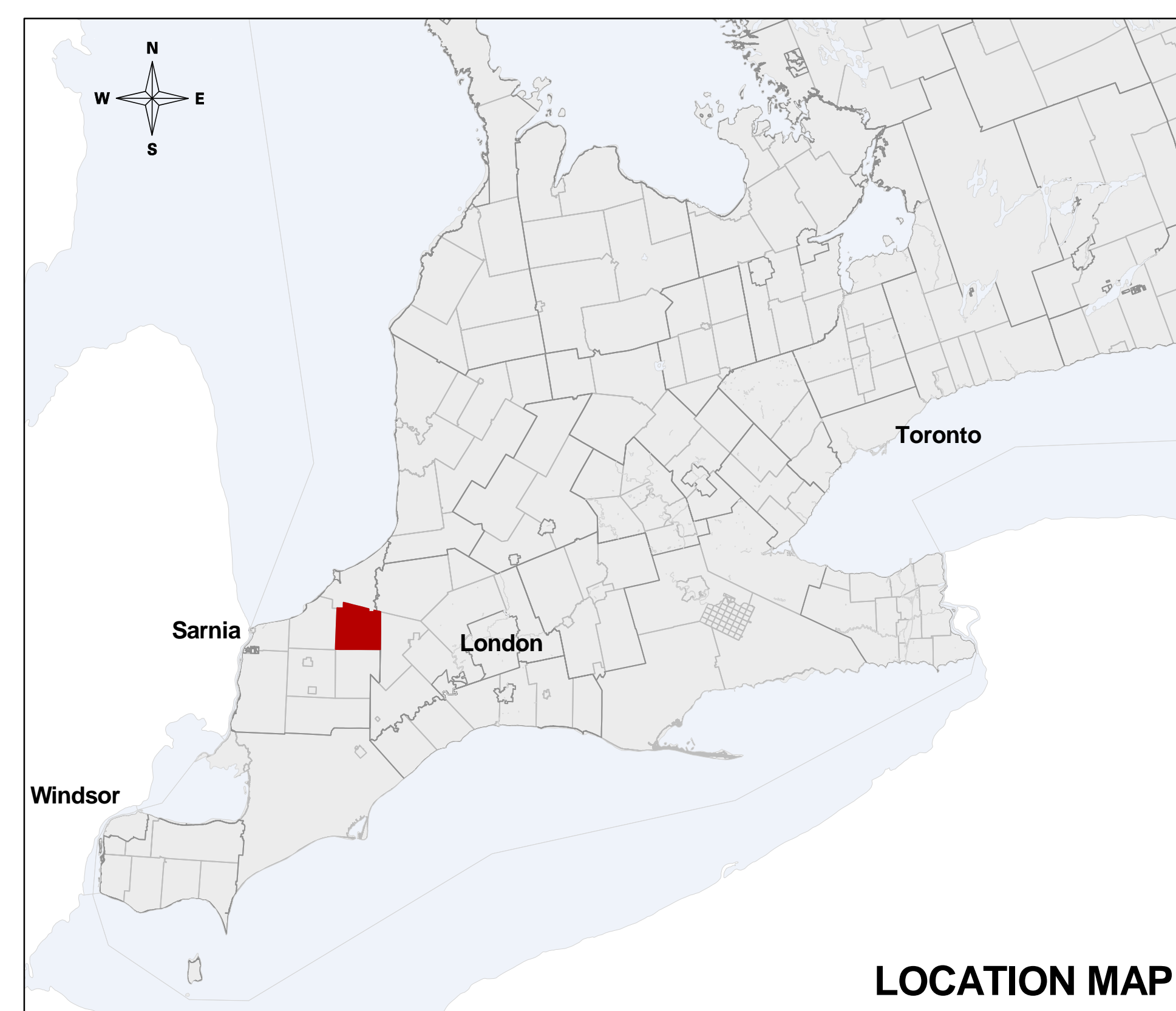


**Township of Warwick**



**Disclaimer:**

Enbridge Gas Inc.  
 The map is provided with no warranty express or implied and is subject to change at any time. Any Person using the Density Map shall do so at its own Risk and the Density Map is not intended in any way As a tool to locate underground infrastructure for the purposes of excavation.



**LOCATION MAP**