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January 31, 2025

VIA RESS AND EMAIL

Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street, Suite 2700
Toronto, ON M4P 1E4

Dear Nancy Marconi:

**Re: Enbridge Gas Inc. (Enbridge Gas or the Company)
Ontario Energy Board (OEB) File: EB-2024-0249
Boblo Island Community Expansion Project (Project)
Chippewas of the Thames First Nation (COTTFN) Letter of Comment**

On October 28, 2024, COTTFN filed a Letter of Comment to notify the OEB of its concern that the Crown's duty to consult has not been adequately discharged in respect of the Project. Rule 23.03 of the OEB's [Rules of Practice and Procedure](#) requires Enbridge Gas to address the issues raised in the Letter of Comment by way of a document filed in the proceeding before the proceeding's record is closed. Please see below for Enbridge Gas's responses to the issues raised by COTTFN in its Letter of Comment:

COTTFN Issue

1. On Oct. 11, 2024, COTTFN requested a copy of Enbridge's Environmental Protection Plan (EPP) for the project prior to implementation. Enbridge Gas Inc. (EGI) responded on Oct. 24, 2024, that EGI would "provide COTTFN with specific sections from the EPP of concern to COTTFN". EGI has not provided a written justification as to why COTTFN cannot view the full EPP. If there is any confidential or proprietary information in the EPP, EGI could redact those sentences. If COTTFN only receives excerpts, it will not be clear what information is being withheld. For meaningful consultation, there must be fulsome disclosure of information, especially regarding potential environmental impacts and proposed mitigation measures within COTTFN's Treaty and Traditional Territory. EGI must provide rigorous justification for not providing the full EPP; otherwise, COTTFN should have access to the document.

Enbridge Gas Response

1. Enbridge Gas recognizes the importance of addressing concerns raised by COTTFN regarding the Environmental Protection Plan (EPP). Enbridge Gas's intention in providing specific sections of the EPP was to focus on the aspects of the plan that were of particular concern to COTTFN, ensuring that the most relevant information was shared promptly. The majority of the environmental

mitigation and protection measures are outlined in the Environmental Report (ER), which has been made available to COTTFN as part of the consultation process. These mitigation and protection measures will be included in the final EPP.

Enbridge Gas is committed to transparency and will allow COTTFN to review the complete EPP once it is finalized, before construction commences. It is important to note that all necessary environmental permits and approvals must be obtained prior to finalizing the EPP, which is why the document cannot be shared in its final form at this time. If there are any sections in the EPP containing confidential or proprietary information, Enbridge Gas is open to discussing potential redactions to ensure that COTTFN has access to the information it requires for meaningful consultation. Enbridge Gas appreciates COTTFN's engagement and will continue to work collaboratively to address any outstanding concerns.

COTTFN Issue

2. To date, EGI has not offered equity opportunities in rate-regulated assets to Rights Holding First Nations in southwestern Ontario. EGI owns and operates assets, including pipelines and gas storage infrastructure, throughout COTTFN's Traditional and Treaty territory. COTTFN does not financially benefit from and did not consent to these assets. The Ontario government is not adequately capturing the cumulative impacts of such infrastructure on COTTFN's inherent and constitutionally protected rights.

Through recent case law, such as *Yahey v. British Columbia*, 2021 BCSC 1287, Canadian courts have acknowledged that regulatory regimes without effective and binding measures to ensure protection of constitutionally protected rights do not meet the test of diligence required of the Crown. As noted in the Spirit of the Land toolkit,¹ projects impact inherent cultural rights in tangible and intangible ways that are not adequately captured in provincial project-specific assessments and regulatory proceedings. The Boblo Island Expansion Project is, on its own, relatively small, but it is part of a much larger inventory of existing and new Enbridge projects in the Nation's territory.

The Truth and Reconciliation Commission's Call to Action 92 addresses the corporate sector, which must ensure that "Aboriginal communities can gain long-term sustainable benefits from economic development projects."² Enbridge acknowledges the importance of economic inclusion and partnership in its Indigenous Reconciliation Action Plan (IRAP). The Crown also has a responsibility to ensure that the corporate sector fulfills this Call to Action. The Ontario Energy Board must ensure that the Rights Holding First Nations are offered equity ownership in hydrocarbon projects, or, if not feasible, equivalent economic compensation.

¹ [FNMPC SOTL Toolkit.pdf](#)

² [Calls_to_Action_English2.pdf](#)

Enbridge Gas Response

2. Enbridge Gas is meeting with and discussing the interests and priorities of Indigenous groups, including representatives of COTTFN, in an effort to explore opportunities to advance innovative partnerships and economic inclusion. Enbridge Gas is generally considering options for equity participation on Enbridge Gas projects within Ontario, including new infrastructure assets. It is important to recognize that the decision of whether to pursue such private commercial transactions rests with Enbridge Gas and the Indigenous groups to which opportunities may be available and offered. Also, there are regulatory and financial barriers that exist for equity sharing on OEB-regulated Enbridge Gas assets, such as financing costs, profitability, a potential need to transfer assets to a new entity, OEB approvals including a Certificate of Public Convenience and Necessity, franchise agreement, rate order, and regulatory obligations pursuant to OEB rules and Technical Standards and Safety Authority requirements.

COTTFN Issue

3. There is a lack of transparency regarding the selection of Phase 2 Natural Gas Expansion Program projects. The Ontario Energy Board released a report on Oct. 30, 2020, outlining the potential projects and the factors in assessing whether those projects could be feasibility implemented.³ The Ontario government subsequently assessed and selected the successful projects. To the best of our knowledge, there is no public ranking or assessment of the projects. This lack of transparency makes it difficult for COTTFN to understand the cost-benefit analysis of the project in relation to potential adverse impacts and in relation to alternatives. The lack of transparency in decision-making also makes the process vulnerable to potential political interference. While COTTFN requested information from EGI on alternatives in a letter dated Aug. 31, 2023, EGI responded that EGI is not required by the OEB to consider alternatives as part of this program.

For future phases of the program, the Ministry of Energy and the Ontario Energy Board must ensure that there is a transparent selection process and that there is a comprehensive analysis, including any feasible alternatives.

Enbridge Gas Response

3. As part of Phase 2 of the Natural Gas Expansion Program (NGEP) process, Enbridge Gas filed proposals for 207 potential community expansion and economic development projects. On June 9, 2021, the Government of Ontario announced that 28 projects across 43 communities were selected for funding under Phase 2 of the NGEP, including the Project.⁴

³ [OEB Report - Report to the Minister of Energy, Northern Development and Mines and to the Associate Minister of Energy: Potential Projects to Expand Access to Natural Gas Distribution](#)

⁴ EB-2024-0249, Exhibit B, Tab 1, Schedule 1, p. 2.

Enbridge Gas confirms that it is not required by the OEB to consider alternatives to the infrastructure facilities to meet the Project Need. Please see Exhibit C, Tab 1, Schedule 1 in Enbridge Gas's pre-filed evidence for the EB-2024-0249 proceeding for more information regarding alternatives.

Please contact the undersigned if you have any questions.

Yours truly,

Evan Tomek

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