



**EB-2015-0334**

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*,  
S.O. 1998, c. 15, (Schedule B);

**AND IN THE MATTER OF** an Application by Jim Babirad  
under section 38(3) of the *Ontario Energy Board Act, 1998*,  
S.O. 1998 for an Order of the Board determining the quantum  
of compensation that Jim Babirad is entitled to receive from  
Enbridge Gas Distribution Inc.

**AND IN THE MATTER OF** a Motion to Review and Vary by  
Jim Babirad pursuant to the Ontario Energy Board's *Rules of  
Practice and Procedure* for a review of the Board's Decision  
and Order in proceeding EB-2014-0351.

**NOTICE OF MOTION TO REVIEW AND VARY  
AND PROCEDURAL ORDER NO. 1**

**February 3, 2016**

By way of letter dated November 18, 2015 Jim Babirad filed a Motion to Review and Vary (Motion) the Ontario Energy Board's (OEB) Decision and Order dated October 29, 2015 (EB-2014-0351) in which the OEB determined that Enbridge is to pay Jim Babirad compensation in the amount of \$8.81 per acre for the year 2015 to be adjusted periodically by the same percentage increase and at the same time as Enbridge adjusts payments to all landowners in all of Enbridge's storage pools. The OEB has assigned the Motion file number EB-2015-0334.

Rule 44.01(a) of the OEB's *Rules of Practice and Procedure* (Rules) provides the grounds upon which a motion to review and vary may be made to the OEB:

Every notice of motion made under Rule 42.01, in addition to the requirements under Rule 8.02, shall:

- (a) Set out the grounds for the motion that raise a question as to the correctness of the order or decision, which grounds may include:
- i. error in fact;
  - ii. change in circumstances;
  - iii. new facts that have arisen;
  - iv. facts that were not previously placed in evidence in the proceeding and could not have been discovered by reasonable diligence at the time.

Under Rule 42.01 of the Rules the OEB may determine, with or without a hearing, a threshold question of whether the matter should be reviewed before conducting any review on the merits. The purpose of the threshold question is to determine whether the grounds put forward by the moving party raise a question as to the correctness of the order or the decision, and whether there is enough substance to the issues raised that a review could result in the OEB varying, cancelling, or suspending the decision.

The OEB has determined that the most expeditious way of dealing with this Motion is to consider concurrently the threshold question of whether the matter should be reviewed (as contemplated in the OEB's *Rules of Practice and Procedure*) and the merits of the Motion.

The OEB will proceed by way of a written hearing unless a party satisfies the OEB that there is good reason for not holding an oral hearing.

**THE BOARD ORDERS THAT:**

1. Any party wishing to request an oral hearing shall file its request with the OEB by February 10, 2016.
2. Jim Babirad shall file with the OEB and deliver to Enbridge any additional material in support of the Motion by February 18, 2016.

All filings to the OEB must quote the file number, EB-2015-0334, be made through the OEB's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.ontarioenergyboard.ca/OEB/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have internet

access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the OEB Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

**ADDRESS**

Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27th Floor  
Toronto ON M4P 1E4  
Attention: Board Secretary

E-mail: [boardsec@ontarioenergyboard.ca](mailto:boardsec@ontarioenergyboard.ca)  
Tel: 1-888-632-6273 (Toll free)  
Fax: 416-440-7656

**DATED** at Toronto, **February 3, 2016**

**ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Walli  
Board Secretary