



# **DECISION ON APPEALS**

**EB-2020-0066**

**ENBRIDGE GAS INC.**

**Application for Voluntary Renewable Natural Gas Program**

**BEFORE: Susan Frank**  
Presiding Member

**Lynne Anderson**  
Member

**Emad Elsayed**  
Member

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**April 30, 2020**

## 1 INTRODUCTION

Enbridge Gas Inc. (Enbridge Gas) filed an application with the Ontario Energy Board (OEB) on March 5, 2020 under Section 36 of the *Ontario Energy Board Act, 1998* (OEB Act), seeking approval to commence the operation of a Voluntary Renewable Natural Gas (RNG) Program in January 2021.

The OEB received requests from Anwaatin Inc. (Anwaatin) and Pollution Probe for intervenor status and cost award eligibility.

On April 22, the OEB Registrar (Registrar) issued Procedural Order 1 (PO1) in which, among other things, intervention requests of Anwaatin and Pollution Probe were denied. Both Anwaatin and Pollution Probe filed letters requesting that the OEB reconsider the decision to deny each of them intervenor status and cost award eligibility.

The OEB will grant Anwaatin and Pollution Probe's intervention and cost award eligibility requests with a narrower scope.

## 2 APPEALS

### Anwaatin

In PO1, the Registrar was not satisfied that Anwaatin has a substantial interest in this proceeding within the meaning of Rule 22.02 of the OEB's *Rules of Practice and Procedure*.

PO1 further stated that "Anwaatin's interest in energy poverty issues and the role of RNG in facilitating responses to energy poverty issues are not the focus of this proceeding. This proceeding pertains to Enbridge Gas's specific request to charge customers, who choose to participate, a rate to participate in a voluntary RNG program. The proceeding is not meant to be a review of gas supply planning. Therefore, this application is not the appropriate venue to address issues related to energy poverty, access to reliable energy solutions for indigenous communities or strengthening distributed energy resources in Indigenous communities."

On April 24, 2020, Anwaatin filed a letter requesting that the OEB reconsider the decision to deny its intervention request. Anwaatin stated that:

- a. the Voluntary RNG Program was developed further to the provincial government's Made-in-Ontario Environment Plan, which expressly includes objectives to improve access to clean and affordable energy in northern Ontario Indigenous communities
- b. some of the Anwaatin First Nations and their members are customers of Enbridge Gas, and thus potential participants in the Voluntary RNG Program
- c. the Anwaatin First Nations have signed Long-Term Relationship Agreements that include financial consideration in the Greenstone Gold Mines Inc. Hardrock gold mine project that will include natural gas plants serviced by Enbridge Gas
- d. the Anwaatin First Nations are exploring opportunities to produce RNG and are interested in opportunities to access RNG consumer offerings in their communities
- e. the Anwaatin First Nations are remote or near-remote Indigenous communities that experience distinct and unique impacts of the cost of energy, which may include the voluntary costs proposed as part of the Voluntary RNG Program

In its letter, Anwaatin referred to section 7 of the OEB Act, which provides for appeals of delegated decisions to the OEB. As a result, the OEB will treat Anwaatin's letter as an appeal of the Registrar's decision.

### Pollution Probe

In PO1, the Registrar noted that Pollution Probe had not established that they had a substantial interest in this proceeding.

PO1 further stated that "With respect to Pollution Probe's request, the OEB notes that Pollution Probe's areas of focus as described are very broad and their linkages to the issues to be determined in this proceeding have not been established. As stated above, this application focusses on a specific voluntary program. The proceeding is not meant to encompass broad policy issues, nor a more extensive review of gas supply planning."

On April 27, 2020, Pollution Probe filed a letter requesting that the OEB accept its intervention request. In doing so, Pollution Probe clarified its intervention request, noting that:

- a. it chose to reference broader Provincial policy in its original request for intervention because Enbridge Gas had underpinned Provincial policy as a basis of their application
- b. it intends to focus specifically on the issues (need, benefits and costs for consumers) related to the proposed Voluntary RNG Program and not expand beyond that narrow scope in this proceeding
- c. it represents the direct interests of consumers, including working directly with consumers and communities in Ontario as well as working collaboratively with organizations such as the Clean Air Partnership and Clean Air Council that represent over 30 municipalities in Ontario

The OEB will treat Pollution Probe's letter as an appeal of the Registrar's decision.

## Findings

The OEB finds that both Anwaatin's April 24, 2020 letter and Pollution Probe's April 27, 2020 letter clarified their requests for intervenor status.

On the basis of Anwaatin's membership of Animbiigoo Zaagi'igan Anishinaabek Nation and Ginoogaming First Nation, currently served by Enbridge Gas, and Aroland which is a prospective customer of Enbridge Gas, Anwaatin is granted intervenor status and cost award eligibility.

On the basis of Pollution Probe directly representing the interests of consumers in Ontario as well as the interests of organizations such as the Clean Air Partnership and Clean Air Council, which represent over 30 municipalities in Ontario, Pollution Probe is granted intervenor status and cost award eligibility.

The OEB, however, notes that the scope of this proceeding is very narrow, with only details of the proposed Voluntary RNG Program being at issue.

As Anwaatin correctly noted in its April 24, 2020 letter, the current proceeding will not be a review of natural gas supply planning, nor will it address issues of energy poverty, access to reliable energy solutions for Indigenous communities, or strengthening distributed energy resources in Indigenous communities. Moreover, as Pollution Probe correctly noted in its April 27, 2020 letter, the current proceeding will not be a review of the broader policy context or Provincial policy goals.

Furthermore, opportunities to access specific RNG consumer offerings in remote or near-remote Indigenous communities are beyond the scope of this proceeding. The voluntary charge being proposed by Enbridge Gas would not relate to funding for RNG investments for communities not served by Enbridge Gas.

In addition, commercial interests to develop RNG are not eligible for cost awards, and in this proceeding, the OEB is only considering Enbridge Gas' proposed program, not other RNG ventures.

The procedural steps and dates in PO1 remain unchanged. The parties are further reminded that only questions/submissions related to Enbridge Gas' Voluntary RNG Program are appropriate and any activity that is out of scope will not be eligible for cost awards.

The OEB wishes to make one final observation regarding interventions to assist parties in future proceedings. Parties seeking intervention status should be specific in their requests for intervenor status regarding the nature and scope of their intervention. The

general nature of Anwaatin's and Pollution Probe's original intervention requests resulted in extra effort by the OEB. While the OEB has provided a very prompt reply to Anwaatin and Pollution Probe's letters, it cannot provide assurance that this will always be possible.

**DATED** at Toronto April 30, 2020

**ONTARIO ENERGY BOARD**

*Original Signed By*

Robert Dodds  
Vice Chair

**SCHEDULE A**

**ENBRIDGE GAS INC.**

**EB-2020-0066**

**APRIL 30, 2020**

**APPLICANT AND LIST OF INTERVENORS**

**Enbridge Gas Inc.  
EB-2020-0066**

**APPLICANT & LIST OF INTERVENORS**

April 30, 2020

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