



Enbridge Gas Inc.

**Application for leave to construct a natural gas pipeline
and associated facilities in the Township of North
Dumfries within the Regional Municipality of Waterloo.**

**PROCEDURAL ORDER NO. 1
January 07, 2021**

Enbridge Gas Inc. (Enbridge Gas) applied to the Ontario Energy Board (OEB) on November 9, 2020 under sections 90 and 97 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), for an order granting leave to construct approximately 2.0 kilometres of natural gas pipeline and associated facilities in the Township of North Dumfries within the Regional Municipality of Waterloo. Enbridge Gas has also applied to the OEB for approval of the form of land-use agreements it offers to landowners for the routing and construction of the project.

A Notice of Hearing was issued on November 24, 2020.

Each of Pollution Probe and Environmental Defence applied for intervenor status and cost eligibility. On December 18, 2020 Enbridge Gas filed a letter objecting to the intervention requests of Pollution Probe and Environmental Defence. On December 18, 2020, Pollution Probe filed its letter in response to Enbridge Gas's objection. On January 4, 2021, Environmental Defence filed its letter in response to Enbridge Gas's objection.

Intervention Request of Pollution Probe

In its letter of intervention, Pollution Probe states that it wishes to focus on issues related to alternatives considered, financial, environmental and socio-economic impacts, abandonment of the existing pipeline, and need for the project. With respect to need for the project, Pollution Probe states that it wishes to focus on Enbridge Gas' interpretation of Canadian Standards Association (CSA) Z662 requirements. Pollution Probe states that the interpretation of the CSA standard has been the subject of review in other leave to construct proceedings and its interpretation in this proceeding may have broader

implications on other existing pipelines. Accordingly, Pollution Probe requested that the OEB consider convening an oral hearing “to cross examine experts (including TSSA).”

Enbridge Gas primarily objected to Pollution Probe’s request for an oral hearing. Enbridge Gas noted that although Pollution Probe has not demonstrated how it or its constituents are directly impacted by the project, the issues referenced by Pollution Probe are relevant and that Enbridge Gas was prepared to respond to the issues. However, Enbridge Gas objected to Pollution Probe’s request for an oral hearing and to engage external experts to examine interpretation of CSA Z662 requirements, noting that it was unnecessary. Enbridge Gas noted that the Technical Standards and Safety Authority (TSSA), which administers the CSA standards, is a member of the Ontario Pipeline Coordinating Committee (OPCC) and has reviewed the project in its capacity as a reviewer and auditor of all new pipeline projects that are submitted to the OEB. Therefore, a further review by the TSSA was unnecessary, inefficient and would make the OPCC review process redundant.

In its response to Enbridge Gas’s objections, Pollution Probe questioned the scope of the TSSA’s review as a member of the OPCC and reiterated its request for an oral hearing.

The OEB is satisfied that Pollution Probe has a substantial interest in this proceeding within the meaning of Rule 22.02 of the OEBs *Rules of Practice and Procedure*. Pursuant to section 3.03 (b) of the *Practice Direction on Cost Awards*, Pollution Probe is eligible to apply for cost awards pursuant to the *Practice Direction on Cost Awards*. With respect to Pollution Probe’s request for an oral hearing, the OEB Panel that will decide this application will make a determination on future procedural steps after the interrogatory phase of the proceeding.

Intervention Request of Environmental Defence

In its letter of intervention, Environmental Defence states that it wishes to focus on issues related to need for the project, drivers for the project, implications on other pipeline systems, whether the project “has been considered in an appropriately holistic and integrated way in relation to other projects that might be needed in the area” and “whether the project accounts for the possibility of declining future gas use”.

In its letter of objection, Enbridge Gas noted that like Pollution Probe, Environmental Defence has not demonstrated how it or its constituents are directly impacted by the project. Enbridge Gas noted that it was prepared to respond to questions about need and alternatives considered but questioned Environmental Defence’s focus on issues

about “declining gas use and holistic and integrated planning”. Enbridge Gas noted that issues of declining gas use and integrated planning were better suited for the on-going Integrated Resource Planning (EB-2020-0091) proceeding and as such do not apply to this project which is primarily about safety and compliance.

In response to Enbridge Gas’ objection, Environmental Defence reiterated its interest in this proceeding and noted that it was applying for status and cost eligibility under section 3.03 (a) and 3.03 (b) of the *Practice Direction on Cost Awards*. With respect to its issues of interest, Environmental Defence highlighted the OEB’s continued emphasis on integrated planning and noted that its intention is to pursue issues that apply specifically to this project and are not being addressed as part of the generic Integrated Resource Planning proceeding.

The OEB is satisfied that Environmental Defence has a substantial interest in this proceeding within the meaning of Rule 22.02 of the OEBs *Rules of Practice and Procedure*. With respect to Environmental Defence’s issues related to integrated planning and declining use, the OEB notes that Environmental Defence has confirmed that its focus is on how these issues relate to this specific project and not in a broad generic context. Environmental Defence has also noted that it wishes to cover issues specific to this project that are not being addressed in the Integrated Resource Planning proceeding. Environmental Defence is eligible to apply for cost awards pursuant to the *Practice Direction on Cost Awards*.

Parties should focus their participation on issues that are within the scope of this hearing and should not engage in detailed exploration of items that do not appear to be material. In addition, intervenors should coordinate their participation to avoid duplication of effort. In making its decision on cost awards, the OEB will consider whether cost eligible intervenors focused their participation on issues within the scope of this hearing, made reasonable efforts to avoid duplication and ensured their participation was focused on material issues.

Cost eligible intervenors should also be aware that the OEB will not generally allow the recovery of costs for the attendance of more than one representative of any party, unless a compelling reason is provided when cost claims are filed.

Being eligible to apply for recovery of costs is not a guarantee of recovery of any costs claimed. Cost awards are made by way of OEB order at the end of a hearing.

The list of parties in this proceeding is attached as Schedule A to this Procedural Order.

Interrogatories

At this time, provision is being made for written interrogatories. Parties should consult sections 26 and 27 of the OEB's [Rules of Practice and Procedure](#) regarding required naming and numbering conventions and other matters related to interrogatories.

It is necessary to make provision for the following matters related to this proceeding. Further procedural orders may be issued by the OEB.

IT IS THEREFORE ORDERED THAT:

1. OEB staff and intervenors shall request any relevant information and documentation from Enbridge Gas that is in addition to the evidence already filed, by written interrogatories filed with the OEB and served on all parties by, **January 15, 2021**.
2. Enbridge Gas shall file with the OEB complete written responses to all interrogatories and serve them on intervenors by, **January 25, 2021**.

Parties are responsible for ensuring that any documents they file with the OEB should 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*.

All materials filed with the OEB must quote the file number, **EB-2020-0065**, and be submitted in a searchable/unrestricted PDF format with a digital signature through the OEB's web portal at <https://pes.ontarioenergyboard.ca/eservice>. Filings must clearly state the sender's name, postal address, telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the [Regulatory Electronic Submission System \(RESS\) Document Guidelines](#) found at www.oeb.ca/industry. We encourage the use of RESS; however, parties who have not yet [set up an account](#), may email their documents to registrar@oeb.ca.

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

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Ritchie Murray at

Ritchie.Murray@oeb.ca and OEB Counsel, James Sidlofsky at
James.Sidlofsky@oeb.ca.

Email: registrar@oeb.ca
Tel: 1-888-632-6273 (Toll free)
Fax: 416-440-7656

DATED at Toronto, **January 07, 2021**

ONTARIO ENERGY BOARD

By delegation, before: Christine E. Long

Original signed by

Christine E. Long
Registrar

**Enbridge Gas Inc.
Leave to Construct – Branchton Project
EB-2020-0065**

APPLICANT & LIST OF INTERVENORS

January 7, 2021

APPLICANT

Rep. and Address for Service

Enbridge Gas Inc.

Asha Patel

Technical Manager, Regulatory Applications
Enbridge Gas Inc.
500 Consumers Rd.
Toronto ON M2J 1P8
Tel: 416-495-5642
Fax: 416-495-6072
Asha.Patel@enbridge.com
EGIRegulatoryProceedings@enbridge.com

APPLICANT COUNSEL

Tania Persad

Senior Legal Counsel
Enbridge Gas Inc.
500 Consumers Road
Toronto ON M2J 1P8
Tel: 416-495-5891
Fax: 416-495-5994
tania.persad@enbridge.com

**Enbridge Gas Inc.
Leave to Construct – Branchton Project
EB-2020-0065**

APPLICANT & LIST OF INTERVENORS

January 7, 2021

INTERVENORS

Rep. and Address for Service

**Environmental Defence
Canada Inc.**

Jack Gibbons

Ontario Clean Air Alliance
160 John Street, Suite 300
Toronto ON M5V 2E5
Tel: 416-260-2080 Ext: 2
jack@cleanairalliance.org

Kent Elson, Counsel

Amanda Montgomery, Associate
Elson Advocacy Professional Corporation
1062 College Street
Lower Suite
Toronto ON M6H 1A9
Tel: 416-906-7305
Fax: 416-763-5435
kent@elsonadvocacy.ca
amanda@elsonadvocacy.ca

Pollution Probe

Michael Brophy

Consultant for Pollution Probe
Michael Brophy Consulting Inc.
28 Macnaughton Road
Toronto ON M4G 3H4
Tel: 647-330-1217
michael.brophy@rogers.com