



Enbridge Gas Inc.

**Application for leave to construct a natural gas pipeline
and associated facilities in the in the City of Toronto.**

**PROCEDURAL ORDER NO. 4
January 14, 2021**

Enbridge Gas Inc. (Enbridge Gas) applied to the Ontario Energy Board (OEB) on October 13, 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 (LTC) approximately 1.9 kilometres of 20-inch diameter and approximately eight metres of 24-inch diameter natural gas pipeline and ancillary facilities in the City of Toronto (Proposed Pipeline). Enbridge Gas stated that the Proposed Pipeline is required because of the need to relocate a section of existing pipeline that is located on the Keating Railway Bridge, which is in conflict with the construction of Waterfront Toronto's Port Lands Flood Protection and Enabling Infrastructure Project (PLFPEI). The application stated that Enbridge Gas has advised Waterfront Toronto that Waterfront Toronto is responsible for 100% of the costs of the Proposed Pipeline because Waterfront Toronto has requested the relocation of the existing pipeline. 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 Proposed Pipeline.

In its intervention request, Waterfront Toronto stated that it believes that the OEB does not have the jurisdiction to allocate the cost of the pipeline to Waterfront Toronto.

Procedural Order No. 1 was issued on December 10, 2020 and granted intervenor status to the City of Toronto, Energy Probe Research Foundation (EP), Environmental Defence Canada Inc. (ED), Federation of Rental-housing Providers of Ontario (FRPO), Pollution Probe, Toronto and Region Conservation Authority, Toronto Waterfront Revitalization Corporation (Waterfront Toronto), and Schools Energy Coalition (SEC).

Procedural Order No. 1 also provided for written submissions from Enbridge Gas, OEB staff and the intervenors on two questions regarding the OEB's jurisdiction to determine

cost responsibility for the Proposed Pipeline to be filed with the OEB and served on all parties by December 17, 2020.

Procedural Order No. 2, which was issued on December 14, 2020, revised part of the schedule set out in Procedural Order No. 1 for the filing of submissions on the jurisdictional questions, interrogatories and interrogatory responses.

Procedural Order No. 3 was issued on December 22, 2020 and revised the schedule set out in Procedural Order No. 2. Pursuant to Procedural Order No. 3, a reply submission by Enbridge Gas on the jurisdictional questions is due by January 15, 2021. Interrogatories on Enbridge Gas's application and pre-filed evidence are also due by January 15, 2021. Enbridge Gas's responses to interrogatories are due by January 25, 2021.

Pollution Probe filed its submission on the jurisdictional questions on January 7, 2021. Each of the City of Toronto, EP, ED, FRPO, Waterfront Toronto, SEC and OEB staff filed submissions on January 8, 2021.

In its submission, the City of Toronto noted that it has terminated its 1955 permission for Enbridge Gas to use the Keating Railway Bridge and has advised Enbridge Gas that it is required to remove the existing pipeline by May 2, 2022.

In its submission, Waterfront Toronto stated that it is building a new utility corridor to serve utilities currently using the Keating Railway Bridge to carry utility assets across the Don River (Utility Corridor) and that this facility has been offered to Enbridge Gas for its use.

In its submission, Pollution Probe recommended that the interrogatory phase be placed on hold until Enbridge Gas has an opportunity to update its evidence based on a more cost-effective solution and any cost sharing agreements it is able to secure. In its submission, OEB staff suggested a settlement conference to address the cost responsibility aspect of this application as well as alternatives to the Proposed Pipeline advocated by other parties such as Waterfront Toronto.

On January 12, 2021, Enbridge Gas filed a letter requesting that the OEB schedule a mediation session at the earliest opportunity. That same day, SEC filed a letter in support of Enbridge Gas's request.

The OEB finds that it would be appropriate to defer the interrogatory stage of this proceeding until a settlement conference has been held on two specific issues:

1. Is the Proposed Pipeline the most cost-effective solution and have all viable alternatives been properly considered, including the Utility Corridor proposed by Waterfront Toronto?
2. What should be the cost responsibility for the pipeline relocation between Enbridge Gas and Waterfront Toronto and/or the City of Toronto?

To assist the parties in the consideration of issue 1, Waterfront Toronto shall file evidence on the proposed Utility Corridor that is in addition to the information provided in its submission on the two jurisdictional questions. At a minimum, the evidence shall include a description of the location and design of the Utility Corridor as well as a summary of any discussions it has had with Enbridge Gas regarding this option.

The OEB will issue a Procedural Order to re-establish a schedule for interrogatories on the application and pre-field evidence and responses to those interrogatories in due course.

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. The procedural schedule set out in Procedural Order No. 3 for interrogatories on Enbridge Gas's application and pre-field evidence and responses to those interrogatories is cancelled. For clarity, Enbridge Gas's reply submission on the jurisdictional questions is still due by **January 15, 2021**.
2. Waterfront Toronto shall file with the OEB evidence on the Utility Corridor alternative and serve it on intervenors by **January 19, 2021**.
3. A settlement conference among the parties and OEB staff on the two issues set out in this Procedural Order will be convened on **January 25, 2021** starting at 9:30 a.m. If necessary, the settlement conference will continue on **January 26, 2021**. (Instructions regarding the virtual settlement conference will be communicated later.)
4. Any settlement proposal on the two issues set out in this Procedural Order arising from the settlement conference shall be filed with the OEB on or before **February 9, 2021**. In addition to outlining the terms of any settlement, the settlement proposal should contain a list of any unsettled issues, indicating with

reasons whether the parties believe those issues should be dealt with by way of an oral or written hearing.

5. Any submission from OEB staff on a settlement proposal shall be filed with the OEB and served on all parties by **February 16, 2021**.
6. If there is no settlement proposal arising from the settlement conference, Enbridge Gas shall file a letter to that effect with the OEB by **February 9, 2021**. In that event, parties shall file and serve on the other parties by **February 16, 2021**, any submissions on which issues should be heard in writing, and for which issues the OEB should hold an oral hearing.
7. The OEB is setting a tentative date of **February 24, 2021**, from 9:30 a.m. to 12:30 p.m. for Enbridge Gas to present to the OEB any settlement proposal on the two issues set out in this Procedural Order and a summary of any unsettled issues. OEB staff will, at the direction of the OEB, confirm or amend this date in subsequent correspondence.

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*.

All materials filed with the OEB must quote the file number, **EB-2020-0198**, 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, Ljuba Djurdjevic at ljuba.djurdjevic@oeb.ca.

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

DATED at Toronto, **January 14, 2021**

ONTARIO ENERGY BOARD

Original Signed By

Christine E. Long
Registrar