



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**

**NOTICE OF DISCONTINUANCE AND COST AWARDS PROCESS
April 5, 2021**

Enbridge Gas Inc. (Enbridge Gas) filed an application and pre-filed evidence with the Ontario Energy Board (OEB) on November 9, 2020 seeking leave to construct (LTC) approximately two kilometers of NPS 26 natural gas pipeline in the Township of North Dumfries within the Regional Municipality of Waterloo (Application). The proposed pipeline would be a like-for-like relocation of an existing 1.7 kilometer segment of pipeline that, according to Enbridge Gas, is no longer in compliance with the class location designation requirements of Canadian Standards Association (CSA) *Z662: Oil and Gas Pipeline Systems* (Z662)¹ (Project).

The OEB issued a Notice of Hearing on November 24, 2020. The OEB issued Procedural Order No. 1 on January 7, 2021, in which Environmental Defence (ED) and Pollution Probe were granted intervenor status and a procedural schedule was set for the interrogatory phase of the proceeding. OEB staff and the intervenors filed interrogatories to Enbridge Gas on the Application on January 15, 2021. Enbridge Gas's responses were due by January 25, 2021.

On January 22, 2021, Enbridge Gas filed a letter with the OEB stating that the CSA had released a new edition of the Z662. Further, the Technical Standards and Safety Authority had adopted the new edition of the Z662, which went into effect in Ontario on February 8, 2021. Due to changes in the new edition related to class location requirements, it appeared to Enbridge Gas that a smaller section of the existing pipeline is out of compliance than suggested in the Application. Enbridge Gas asked the OEB to adjourn the proceeding for two months while Enbridge Gas assessed the effect of the

¹ The purpose of the CSA Z662's class location designation requirements is to identify pipelines or pipeline segments where specific measures are considered necessary to enhance public safety. Designations range from Class 1 (rural) to Class 4 (urban with high-rise buildings).

new edition of the Z662 on the existing pipeline. Enbridge Gas proposed that the adjournment be subject to two conditions:

- 1) That Enbridge Gas file an updated application and evidence on or before March 26, 2021 or to withdraw the Application as filed
- 2) That Enbridge Gas continue to work with stakeholders impacted by the Project to determine an appropriate path forward to meet stakeholder needs

Enbridge Gas advised that, given the uncertainty of how the Application may be impacted, it did not propose to answer interrogatories at that time. Rather, Enbridge Gas would await the OEB's consideration of the adjournment request and further directions.

On January 24, 2021, Pollution Probe filed a letter supporting Enbridge Gas's request for a two-month adjournment. Pollution Probe suggested that the response to interrogatories should still be filed on January 25, 2021 as they might provide useful clarity needed for the OEB to consider Enbridge Gas's temporary adjournment request.

On January 25, 2021, the OEB issued a letter in which it found that responses to interrogatories are not required to inform the adjournment request. The OEB placed the proceeding in abeyance, subject to the two conditions proposed by Enbridge Gas. The Application would remain in abeyance and the OEB's performance metric dates for the application would stop until Enbridge Gas filed updated evidence on or before March 26, 2021 or withdrew the Application.

On February 22, 2021, the Federation of Rental-housing Providers of Ontario (FRPO) filed a late request for intervenor status. On February 23, 2021, the OEB issued a letter stating that FRPO's request for intervention status will be addressed if or when Enbridge Gas resumes the current application or files an updated or new application.

On March 25, 2021, Enbridge Gas filed a letter in accordance with section 20 of the OEB's *Rules of Practice and Procedure* providing notice of withdrawal of the Application. Enbridge Gas stated that it had conducted further assessment of the Project in light of the recent code changes and determined that it will only need to address compliance issues for the portions of pipeline in road crossings at Branchton Road and Franklin Blvd at this time. Further development in the Project area may necessitate a pipeline relocation in the future, but the timing of such development is uncertain. Enbridge Gas is conducting further analysis to determine whether leave to construct may be required for any of this work and will file an application in due course, if required. Other than appropriate compensation for costs in accordance with the OEB's *Practice Direction on Cost Awards*, Enbridge Gas requested that the OEB accept withdrawal of the Application

without conditions.

No intervenor objected to Enbridge Gas's request.

The OEB approves Enbridge Gas's request to withdraw its application and will not impose any conditions on the withdrawal beyond compensation for costs.

Cost Awards Process

In Procedural Order No. 1, the OEB determined that ED and Pollution Probe are eligible to apply for an award of costs.

Prior to Enbridge Gas's request to withdraw the Application, the proceeding had progressed to the point at which OEB staff and intervenors filed interrogatories. The OEB will therefore consider an award of costs for regulatory activities leading up to that milestone.

The OEB is making provision for the filing of cost claims by eligible intervenors.

IT IS THEREFORE ORDERED THAT:

1. The OEB accepts the withdrawal of application EB-2020-0065 without any conditions beyond compensation for costs.
2. ED and Pollution Probe shall file with the OEB and forward to Enbridge Gas Inc. their cost claims in accordance with the OEB's *Practice Direction on Cost Awards* on or before **April 16, 2021**.
3. Enbridge Gas Inc. shall file with the OEB and forward to intervenors any objections to the claimed costs of the intervenors on or before **April 30, 2021**.
4. If Enbridge Gas Inc. objects to the costs of a specific intervenor, that intervenor shall file with the OEB and forward to Enbridge Gas Inc. its response, if any, to the objections to cost claims on or before **May 12, 2021**.
5. Enbridge Gas Inc. shall pay the OEB's costs incidental to this proceeding upon receipt of the OEB's invoice.

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-2020-0065** and be submitted in a searchable/unrestricted PDF format with a digital signature through the OEB's web portal at <https://p-pes.ontarioenergyboard.ca/PivotalUX/>. 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 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, **April 5, 2021**

ONTARIO ENERGY BOARD

Original signed by

Christine E. Long
Registrar