



Enbridge Gas Inc.

**Application for approval to increase the maximum
operating pressure of two natural gas storage pools, to
drill a natural gas storage well, and to construct a natural
gas pipeline in the Township of Moore, Township of St.
Clair in Lambton County**

**PROCEDURAL ORDER NO. 2
February 11, 2022**

On October 27, 2021, Enbridge Gas Inc. (Enbridge Gas) filed an application with the Ontario Energy Board (OEB) seeking approval of its 2022 Storage Enhancement Project (Project). Enbridge Gas filed the application under the noted sections of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B) (OEB Act) requesting:

- Approval of an increase in the maximum operating pressure of its Dow Moore and Payne natural storage pools in order to increase the storage capacity and deliverability of these pools pursuant to section 38(1) of the OEB Act
- A favorable report from the OEB to the Minister of Northern Development, Mines, Natural Resources and Forestry pursuant to section 40(1) of the OEB Act supporting Enbridge Gas's application for a licence to drill a new natural gas storage well in its Kimball-Colinville natural gas storage pool
- Leave to construct 85 metres of NPS 10 steel pipeline to connect the new storage well to the existing Kimball-Colinville gathering line pursuant to section 91 of the OEB Act

The Ministry of Northern Development, Mines, Natural Resources and Forestry (Natural Resources) filed a letter on October 22, 2021, referring the well drilling licence application to the OEB, pursuant to section 40(1) of the OEB Act.

The OEB issued a Notice of Hearing on November 16, 2021. Natural Resources and Mr. Bryan Arnold applied for intervenor status. On December 8, 2021, Enbridge Gas filed a letter in response to both intervention requests. Enbridge Gas stated that it does not object to either intervention request but noted its concerns with Mr. Arnold's intervention request. On December 13, 2021, the OEB issued Procedural Order No. 1 approving Natural Resources as an intervenor. The OEB requested that Mr. Arnold

provide further information regarding his intervention request by December 15, 2021. No further information was filed by Mr. Arnold. The OEB set out dates for the filing of interrogatories and submissions by Natural Resources and OEB staff. Natural Resources and OEB staff filed written interrogatories on December 17, 2021. Enbridge Gas filed interrogatory responses on January 17, 2022. Natural Resources and OEB staff filed submissions on January 28, 2022 and January 31, 2022, respectively, and today was to have been the deadline for Enbridge Gas to file its reply submission.

Late Intervention Request

On February 9, 2022, the Chippewas of Kettle and Stony Point First Nation with Southwind Development Corporation (CKSPFN with Southwind), a wholly owned economic development Corporation of CKSPFN, applied for intervenor status in this proceeding.

CKSPFN with Southwind acknowledged that the deadline to apply for intervenor status was December 6, 2021 but stated that the Project has only recently come to its attention, due to unforeseen staff changes and the impacts of COVID-19 on CKSPFN. CKSPFN with Southwind stated that it is affected by this application with respect to potential impacts on treaty rights, land use and cultural heritage. CKSPFN with Southwind is seeking the opportunity to file a submission based on the current record.

On February 11, 2022, Enbridge Gas filed a response to the intervention request. Enbridge Gas stated that while it fully supports the rights of Indigenous communities to participate as intervenors in Enbridge Gas's leave to construct applications, it has concerns with this very late intervention request, being made only two days prior to the date on which Enbridge Gas was to file its reply submission. Enbridge Gas also has concerns regarding the request to file a submission in terms of the impact on the procedural schedule for the proceeding. Enbridge Gas stated that it requested the OEB's approval of this application by March 24, 2022 in order to meet proposed construction timelines and its primary concern is that an extension of the procedural schedule to allow for this additional submission may place this timeline in jeopardy.

Enbridge Gas took issue with CKSPFN with Southwind's statement that their intervention request is late because the Project has only recently come to their attention. Enbridge Gas stated that it wished to clarify that the Indigenous Consultation Report, filed as part of the application, details engagement activities associated with the Project between CKSPFN and Enbridge Gas beginning in the summer of 2021. Enbridge Gas stated that representatives from Enbridge Gas have been having discussions with representatives from CKSPFN about the Project and the OEB process,

including the deadline to intervene and to date, CKSPFN has not communicated any Project-specific concerns to Enbridge Gas. Enbridge Gas stated that should any Project-specific concerns be raised through continued engagement on the Project, Enbridge Gas advised that it will work with CKSPFN to avoid or mitigate those concerns.

Enbridge Gas also expressed concern with a potential precedent that may be set by allowing an intervention request this late in a proceeding. Enbridge Gas commented that it is important to Enbridge Gas, the OEB, ratepayers, and the general public that the OEB's established procedural timelines are respected and adhered to as these timelines provide for the regulatory efficiency required to conduct business in Ontario.

Enbridge Gas submitted that the OEB should consider the above noted concerns and its commitment to continue to engage with CKSPFN in assessing this late intervention request. Enbridge Gas requested that, if the OEB decides to approve the intervention request and allow CKSPFN with Southwind to provide a submission, Enbridge Gas be allowed to deliver a reply submission.

Findings

The OEB has determined that it will grant intervenor status to CKSPFN with Southwind, pursuant to Rule 22.02 of the OEB's *Rules of Practice and Procedure*. The OEB considers CKSPFN with Southwind to be a single intervenor, and expects that there will be only one submission filed by CKSPFN with Southwind by the deadline set out below. The OEB's decision is based on the very unique circumstances associated with this late intervention, considering CKSPFN with Southwind's proximity to the Project, its stated interests in this matter and the described unanticipated staff changes.

CKSPFN with Southwind states that it intends to apply for recovery of its reasonably incurred costs and believes that it meets the eligibility criteria set out in the OEB's *Rules of Practice and Procedure* (Section 41) and Section 3.03 of the OEB's *Practice Direction on Cost Awards* (Practice Direction). The OEB has determined that CKSPFN with Southwind is eligible to apply for an award of costs under the Practice Direction. The OEB expects that CKSPFN with Southwind will participate in this proceeding in accordance with the OEB's *Rules of Practice and Procedure*.

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 OEB will allow CKSPFN with Southwind to make a submission within the following parameters, as set out in the request for intervenor status:

- a) the submission must be based on the current record of the proceeding
- b) the submission is limited to:
 - i. issues related to the need for the project, project alternatives, project cost and economics, environmental impacts, and land matters
 - ii. whether the duty to consult with Indigenous Communities potentially affected by the proposed project has been discharged with respect to the application; and
 - iii. generally, to represent the Aboriginal rights interests of CKSPFN and its members, and Southwind.

The OEB will only allow a response by Enbridge Gas to the submission of CKSPFN with Southwind.

Next Steps in the Proceeding

As the OEB is allowing CKSPFN with Southwind to file a submission, the date for the filing of Enbridge Gas's reply submissions set out in Procedural Order No. 1 is superseded by the date set out below.

CKSPFN with Southwind is expected to adhere to the schedule set out below.

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

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. Any written submissions from CKSPFN with Southwind, shall be filed with the OEB and served on all parties by, **February 18, 2022**.
2. Any written reply submissions from Enbridge Gas shall be filed with the OEB and served on intervenors by, **February 25, 2022**.

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](#).

Please quote file number, **EB-2021-0078** for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the [OEB's online filing portal](#).

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address
- Please use the document naming conventions and document submission standards outlined in the [Regulatory Electronic Submission System \(RESS\) Document Guidelines](#) found at the [Filing Systems page](#) on the OEB's website
- Parties are encouraged to use RESS. Those who have not yet [set up an account](#), or require assistance using the online filing portal can contact registrar@oeb.ca for assistance
- Cost claims are now filed through the OEB's online filing portal. Please visit the [File documents online page](#) of the OEB's website for more information. All participants shall download a copy of their submitted cost claim and serve it on all required parties as per the [Practice Direction on Cost Awards](#).

All communications should be directed to the attention of the Registrar and be received by end of business, 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, Judith Fernandes at judith.fernandes@oeb.ca and OEB Counsel, James Sidlofsky at james.sidlofsky@oeb.ca.

Email: registrar@oeb.ca
Tel: 1-877-632-2727 (Toll free)

DATED at Toronto, February 11, 2022

ONTARIO ENERGY BOARD

Nancy Marconi
Acting Registrar

SCHEDULE A
LIST OF APPLICANTS AND INTERVENORS
ENBRIDGE GAS INC.
EB-2021-0078
February 11, 2022

Enbridge Gas Inc.
EB-2021-0078

APPLICANT & LIST OF INTERVENORS

February 11, 2022

APPLICANT

Rep. and Address for Service

Enbridge Gas Inc.

Dave Janisse

Technical Manager, Leave to Construct
Enbridge Gas Inc.
P.O Box 2001
50 Keil Drive North
Chatham, ON N7M5M1

Tel: 519-436-5442

Fax: Not Provided

EGIRegulatoryProceedings@enbridge.com

APPLICANT COUNSEL

Tania Persad

Senior Legal Counsel
Enbridge Gas Inc.

500 Consumers Road
North York ON M2J 1P8

Tel: 416-495-5891

Fax: 416-495-5994

tania.persad@enbridge.com

INTERVENORS

Rep. and Address for Service

**Chippewas of Kettle and
Stony Point First Nation**

Philip Lee

Chief Executive Officer
Chippewas of Kettle and Stony Point First Nation
Southwind Development Corporation
9119 West Ipperwash Road, Unit A

Kettle and Stony Point First Nation ON N0N 1J1

Tel: 519-786-6753

Fax: 519-786-6752

philip.lee@southwindcorp.ca

**Enbridge Gas Inc.
EB-2021-0078**

APPLICANT & LIST OF INTERVENORS

February 11, 2022

**Chippewas of Kettle and
Stony Point First Nation**

Donald Richardson
Consultant
IBA Braiding Ltd.
4606 Concession 11
Puslinch ON N0B 2J0
Tel: 226-820-5086
Fax: Not Provided
don@ibabraiding.com

**Ministry of Northern
Development, Mines, Natural
Resources and Forestry**

Demetrius Kappos
Counsel
Ministry of Northern Development, Mines, Natural
Resources and Forestry
3rd Floor, Room 3420
99 Wellesley Street West
Toronto ON M7A 1W3
Tel: 416-314-2007
Fax: 416-314-2030
demetrius.kappos@ontario.ca