

# SCOTT PETRIE LLP

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LAW FIRM

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July 25, 2022

VIA ELECTRONIC FILING

**Attention: Nancy Marconi, Registrar of the OEB**

Ontario Energy Board  
27<sup>th</sup> Floor, 2300 Yonge Street  
Toronto, ON M4P 1E4

Dear Registrar:

**RE: EB-2022-0086 – Enbridge Gas Inc. – Dawn to Corunna Replacement Project  
CAEPLA-DCLC Proposal for Intervenor Evidence – Reply to Enbridge Comments**

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We are writing to provide CAEPLA-DCLC's comments in reply to the Response of Enbridge Gas Inc. to CAEPLA-DCLC's proposal for intervenor evidence. Enbridge Gas Inc. has stated that it does not object to CAEPLA-DCLC's proposal for intervenor evidence, but does object to CAEPLA-DCLC's proposed August 26, 2022 deadline for filing of evidence.

CAEPLA-DCLC disagrees with Enbridge Gas Inc.'s assertion that CAEPLA-DCLC has had the ability to prepare and file evidence in this proceeding without waiting for an "OEB order to that effect". As noted in CAEPLA-DCLC's request for intervenor status, the ability of CAEPLA-DCLC and its landowner members to participate in the proceeding (requiring the assistance of legal counsel and possibly expert consultants) was dependent on the OEB's determination that CAEPLA-DCLC is eligible for a cost award. While the OEB determined that CAEPLA-DCLC is eligible for a cost award, CAEPLA-DCLC's actual recovery of costs is subject to OEB's further determination that CAEPLA-DCLC has participated reasonably in the process, has complied with the OEB's directions, and has not engaged in inappropriate or irresponsible conduct. CAEPLA-DCLC's members are landowners directly affected by Enbridge Gas Inc.'s proposed project and, as they do not stand to profit from the project, cannot afford to risk not recovering their costs of this proceeding by undertaking steps in the proceeding that are not ordered by the OEB.

While landowner evidence has been a part of every OEB leave to construct proceeding in which CAEPLA and GAPLO (the Gas Pipeline Landowners of Ontario) have previously participated, the OEB did not call for intervenor evidence in Procedural Order No. 1 in this proceeding. CAEPLA-DCLC anticipated that the OEB would invite intervenors to file written evidence in a future procedural order and so waited to proceed with any evidence preparation, but no provision was made for intervenor evidence in Procedural Order No. 2 either. It is submitted that CAEPLA-DCLC's decision to wait to commence preparation of evidence was highly appropriate given that the OEB chose not to include intervenor evidence as part of the balance of the hearing procedure mandated in Procedural Order No. 2.

The August 26, 2022 deadline proposed by GAPLO-DCLC for the filing of its written evidence provides approximately one month for GAPLO-DCLC's preparation of evidence and falls two weeks after Enbridge Gas Inc.'s deadline to file undertaking responses from the Technical Conference. It is submitted that one month for the preparation and filing of evidence by GAPLO-DCLC and its directly affected landowner members is reasonable. GAPLO-DCLC estimates that an August 26, 2022 deadline for intervenor evidence should not extend the current process timeline in Procedural Order No. 2 by more than 6 weeks at most, assuming provision is made for Enbridge to submit Interrogatories to CAEPLA-DCLC and file reply evidence.

Enbridge Gas Inc. submits that an August 26, 2022 deadline "is excessive and would unduly delay the remainder of the proceeding and, by extension, the commencement of construction work (assuming leave-to-construct is granted)." CAEPLA-DCLC disagrees that the delay proposed is excessive or undue, but also notes that Enbridge Gas Inc. does not allege that any actual prejudice will arise from the delay. According to the project schedule filed by Enbridge Gas Inc. as Attachment 1 to its response to Pollution Probe Interrogatory 13, Enbridge Gas Inc. already estimates that the leave to construct process will last until the end of October, 2022 and that the acquisition of easements and any necessary expropriations will extend through to the end of July, 2023. CAEPLA-DCLC submits that the extension of the leave to construct process by approximately 6 weeks (which would put the deadline for Enbridge's reply submissions at the end of October, 2022) will not result in any significant change to Enbridge Gas Inc.'s existing project schedule.

CAEPLA-DCLC submits that its request for leave to file intervenor evidence with a deadline of August 26, 2022 is reasonable and appropriate.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED.**

Yours truly,

**SCOTT PETRIE LLP**  
LAW FIRM



**John D. Goudy**

c.c.: Parties to EB-2022-0086, *via email*  
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