



ENBRIDGE GAS INC.

**Application for leave to construct natural gas pipeline
and associated facilities in the Municipality of Chatham
Kent, Municipality of Lakeshore, Town of Kingsville and
Municipality of Leamington**

PROCEDURAL ORDER NO. 1

August 12, 2022

ENBRIDGE GAS INC. (Enbridge Gas) applied to the Ontario Energy Board (OEB) on June 10, 2022, 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 19 kilometres of natural gas pipeline from its Dover Transmission Station in the Municipality of Chatham Kent to its existing pipeline in the Municipality of Lakeshore, and approximately 12 kilometres of natural gas pipeline in the Municipality of Lakeshore, Town of Kingsville and the Municipality of Leamington. The project also involves valve site station work required to tie-in the proposed pipelines. 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 July 4, 2022. The following parties applied for intervenor status:

- Association of Power Producers of Ontario (APPrO)
- Atura Power
- Middle Road Farms Limited and Courey Corporation (Joint intervention)
- Environmental Defence
- Energy Probe
- Federation of Rental-housing Providers of Ontario (FRPO)
- Industrial gas Users Association (IGUA)
- Ontario Greenhouse Vegetable Growers (OGVG)
- Pollution Probe
- Three Fires Group (TFG)

APPrO, Environmental Defence, Energy Probe, FRPO, IGUA, OGVG, Pollution Probe, and TFG also applied for cost eligibility.

No objection was received from Enbridge Gas.

APPrO, Atura Power, Middle Road Farms Limited and Courey Corporation, Environmental Defence, Energy Probe, FRPO, IGUA, OGVG, Pollution Probe and TFG are approved as intervenors. The list of parties in this proceeding is attached as Schedule A to this Procedural Order. APPrO, Environmental Defence, Energy Probe, FRPO, IGUA, OGVG, Pollution Probe and TFG are eligible to apply for an award of costs under the OEB's [Practice Direction on Cost Awards](#).

Parties should not engage in detailed exploration of items that do not appear to be material. In making its decision on cost awards, the OEB will consider whether intervenors made reasonable efforts to ensure that their participation in the hearing was focused on material issues.

Cost eligible intervenors should 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.

Request for Confidentiality

Enbridge Gas has requested confidential treatment for personal information in the Environmental Report (Exhibit F/ Tab1/ Schedule 1/Attachment 1) and in the Landowner List (Exhibit G/Tab 1/Schedule 1/Attachment 2). The OEB will review this request in accordance with the process set out in Part 10 of the OEB's [Practice Direction on Confidential Filings](#) (Practice Direction). Per section 10.1.2 of the Practice Direction, OEB staff will review the information and further steps if any, will be determined by the OEB.

Enbridge Gas has also requested confidential treatment for certain information in the Indigenous Consultation Log and related attachments (Exhibit H/Tab 1/Schedule 1/Attachment 7), on the grounds that the information is commercially sensitive, and its disclosure could prejudice the competitive position of Enbridge Gas in its negotiations with Indigenous groups. Per section 5.1.5 of the Practice Direction, Enbridge Gas shall provide a copy of its request to all parties in this proceeding. Parties will be provided access to the confidential documents per the process outlined in Part 6 of Practice Direction. Parties that wish to make submissions on the confidentiality request shall follow the timelines and process in sections 5.1.6, 5.1.7 and 5.1.8 of the Practice Direction.

Interrogatories

At this time, provision is being made for written interrogatories. In preparing their interrogatories, parties should refer to the OEB's [standard Issues List](#) for natural gas leave to construct applications. Parties should also 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.

Technical Conference

In its letter of intervention, Environmental Defence requested that the OEB make provision for a technical conference to clarify any interrogatory responses and to address any follow-up questions.

In its letter of intervention, Energy Probe stated that a written hearing consisting of a single round of interrogatories and followed by arguments, would not result in an adequate evidentiary record for the OEB to reach a decision on the issues in this case. Energy Probe further stated that given the nature of the evidence, an appropriate regulatory process should include interrogatories, a technical conference, responses to undertakings from the technical conference and written arguments.

At this time the OEB is making provision for a transcribed technical conference for parties to ask clarification questions related to the interrogatory responses filed by Enbridge Gas. Parties are required to file their questions or topic areas for questioning in advance of the conference. Parties are expected to work cooperatively to avoid duplication and to ensure the time reserved for the technical conference is used effectively. Information on how to participate in the technical conference will be provided at a later date.

Filing of Intervenor Evidence

In their respective letters of intervention, APPrO, Atura Power, Environmental Defence and TFG stated that they may file intervenor evidence in this proceeding and requested to reserve the right to file such evidence. Middle Road Farms Limited and Courey Corporation stated that they have retained an expert witness and may also retain a consultant to participate in the hearing.

Any intervenor wishing to file evidence in this proceeding shall file a letter with the OEB describing the nature of the evidence, whether an expert will be retained, whether the expert evidence will be commissioned jointly with other intervenors, and the time needed to prepare and file the evidence. In addition, cost eligible intervenors must provide the estimated cost of preparing the evidence. The estimated cost should include an explanation of any assumptions regarding the purpose and scope of the participation

of an expert in the proceeding and should include an estimate of any incremental time that will be spent by the intervenor's counsel or any other consultant(s) in relation to the expert evidence. After reviewing this material, the OEB will consider whether and to what extent any costs associated with the participation of any expert(s) or the preparation of any expert report(s) will be eligible for cost recovery in accordance with the OEB's Practice Direction on Cost Awards

Type of Hearing

In their letters of intervention, FRPO, IGUA and Pollution Probe stated that the OEB should make its determination on the type of hearing after the interrogatory process has concluded. Environmental Defence stated that the OEB should make provision for submissions on the matter after the conclusion of the discovery process. Middle Road Farms Limited and Courey Corporation stated that the OEB should hold an oral hearing. The OEB will make its determination on the type of hearing at a later date.

Further procedural orders may be issued by the OEB.

THE ONTARIO ENERGY BOARD ORDERSTHAT:

1. If OEB staff and intervenors have any objections to Enbridge Gas's request for confidentiality for information in the Indigenous Consultation Log and related attachments (Exhibit H/Tab 1/Schedule1/Attachment 7), they shall file their written submissions within the timelines specified in sections 5.1.6 and 5.1.7 of the Practice Direction.
2. If Enbridge Gas wishes to respond to the submissions on confidentiality, it must file its written reply submission with the OEB and serve it on all intervenors within the timelines specified in section 5.1.8 of the Practice Direction.
3. 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, **September 1, 2022**.
4. Enbridge Gas shall file with the OEB complete written responses to all interrogatories and serve them on intervenors by, **September 22, 2022**.
5. Intervenors who wish to file evidence in this proceeding shall inform the OEB by letter of their plans to file evidence and provide the information that is described earlier in this procedural order by **September 27, 2022**.

6. A transcribed technical conference will be convened on **October 6, 2022** beginning at 9:30 a.m. Information on how to participate in the conference will be communicated at a later date.
7. Parties intending to participate in the technical conference shall file with the OEB and copy all parties, their clarification questions or the topic areas for which they require clarification by **September 29, 2022**.
8. Enbridge Gas shall file with the OEB complete written responses to all undertakings from the technical conference and serve them on all intervenors by **October 14, 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-2022-0157** 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 [File documents online 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 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, Zora Crnojacki at Zora.Crnojacki@oeb.ca and OEB Counsel, Michael Millar at Michael.Millar@oeb.ca.

Email: registrar@oeb.ca

Tel: 1-877-632-2727 (Toll free)

DATED at Toronto, **August 12, 2022**

ONTARIO ENERGY BOARD

By delegation, before: Nancy Marconi

Nancy Marconi
Registrar

SCHEDULE A

LIST OF APPLICANT AND INTERVENORS

PROCEDURAL ORDER NO. 1

ENBRIDGE GAS INC.

EB-2022-0157

DATED : Aug 12, 2022

**Enbridge Gas Inc.
EB-2022-0157**

APPLICANT & LIST OF INTERVENORS

August 12, 2022

APPLICANT

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INTERVENORS

Rep. and Address for Service

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APPLICANT & LIST OF INTERVENORS

August 12, 2022

**Association of Power
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APPLICANT & LIST OF INTERVENORS

August 12, 2022

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August 12, 2022

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APPLICANT & LIST OF INTERVENORS

August 12, 2022

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