



**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. 3**

**November 10, 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 (Project). 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.

The OEB issued the Notice of Hearing on July 4, 2022, and Procedural Order No. 1 on August 12, 2022.

Procedural Order No. 1, issued on August 12, 2022, set the schedule for written discovery by interrogatories and for a transcribed technical conference.

On October 6, 2022 and October 7, 2022, the OEB held a two-day transcribed technical conference. Procedural Order No. 1 set October 14, 2022 for written responses to undertakings from the technical conference. On October 12, 2022, Enbridge Gas requested an extension to file its written responses to undertakings to October 19, 2022. On October 14, 2022 the OEB issued Procedural Order No. 2, which set the procedural schedule for the remainder of the written hearing including: granting the extension to Enbridge Gas to file undertaking responses, filing of intervenor evidence and Enbridge Gas's reply evidence, written discovery on intervenor and Enbridge Gas's reply evidence, filing of the argument-in-chief, filing of intervenor written submission and filing of Enbridge Gas's reply submission. Pursuant to Procedural Order No. 2, Environmental Defence filed its evidence on October 28, 2022. In Procedural Order No. 2, the OEB

also approved Enbridge Gas's request for confidential treatment of certain interrogatory responses.

### **Request for Extension of Procedural Schedule**

On November 2, 2022 Enbridge Gas requested a further extension to the procedural timeline for the written hearing process that the OEB established in Procedural Order No. 2. On November 3, 2022 Pollution Probe filed a letter in support of Enbridge Gas's request for a procedural timeline extension.

Enbridge Gas submitted that due to the scope and complexity of Environmental Defence's evidence it would need until November 11, 2022 (an additional 7 days) to file its reply evidence. Enbridge Gas suggested that the dates for filing interrogatories on intervenor evidence and Enbridge Gas's reply evidence and responses to these interrogatories be set to November 18, 2022 and November 28, 2022 respectively. According to the schedule proposed by Enbridge Gas its argument-in-chief would be due December 5, 2022 and intervenors' and OEB staff's submissions on December 16, 2022.

Enbridge Gas also asked for additional time to respond to written submissions. Enbridge Gas's rationale was that it expected that the written submissions would cover a wide variety of issues, which would require additional time to review and to prepare a written reply submission. Enbridge Gas stated that January 9, 2023 date for its reply submission would allow sufficient time to review participants' submissions and account for year-end holidays.

The OEB accepts Enbridge Gas' scheduling proposal with one addition. On November 1, 2022, Three Fires Group wrote requesting that Enbridge Gas provide answers to supplementary questions arising out of responses Enbridge Gas provided to undertakings made in the technical conference held on October 6, 2022. In a letter dated November 4, 2022, Enbridge Gas submitted that it had provided sufficient information through the interrogatory process, the technical conference and the undertaking responses. While declining to answer the supplementary questions, Enbridge Gas reiterated its commitment to continued engagement with potentially affected Indigenous groups in connection with the Project. Enbridge Gas provided partial responses to some of the supplementary questions and for others stated that there would not be any material information to be provided. The OEB is not in a position to determine whether any additional available information is material or of assistance in the absence of that information. The OEB is of the view that it would be of more assistance for Enbridge Gas to provide answers to the supplementary questions as posed rather than engaging in a debate about whether the requested information is

material or useful. Enbridge Gas shall file responses to the supplementary questions from Three Fires Group by November 28, 2022.

In its letter, Pollution Probe also raised a question relating to the extent to which the Project is a transmission or distribution project and the applicability of E.B.O. 188 and E.B.O. 134. In a letter dated November 4, 2022, Enbridge Gas stated that the applicability of E.B.O. 134 and E.B.O. 188 is an issue that can be argued in the ordinary course. The OEB confirms that the issue is in scope.

It is necessary to make provision for the following matters related to this proceeding. Further procedural orders may be issued by the OEB.

**THE ONTARIO ENERGY BOARD ORDERS THAT:**

1. Enbridge Gas shall file its reply evidence, with the OEB and serve it on all parties by **November 11, 2022**.
2. Enbridge Gas, OEB staff and intervenors shall request any relevant information and documentation from Environmental Defence that is related to its evidence, by written interrogatories filed with the OEB and serve them on all parties by **November 18, 2022**.
3. OEB staff and intervenors shall request any relevant information and documentation from Enbridge Gas that is related to its reply evidence, if any, by written interrogatories filed with the OEB and serve them on all parties by **November 18, 2022**.
4. Environmental Defence shall file with the OEB complete written responses to all interrogatories and serve them on all parties by **November 28, 2022**.
5. Enbridge Gas shall file with the OEB complete written responses to all interrogatories and serve them on all parties by **November 28, 2022**.
6. Enbridge Gas shall file with the OEB complete written responses to the supplementary questions set out in the letter from Three Fires Group dated November 1, 2022 and serve them on all parties by **November 28, 2022**.
7. Enbridge Gas shall file its argument-in-chief with the OEB and send to all parties by **December 5, 2022**.
8. OEB staff and intervenors shall file their written submissions with the OEB and serve them on all parties by **December 16, 2022**.

9. Enbridge Gas shall file a written reply submission, if any, with the OEB and serve it on all parties by, **January 9, 2023**.

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](mailto: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](mailto:Zora.Crnojacki@oeb.ca) and OEB Counsel, Michael Millar at [Michael.Millar@oeb.ca](mailto:Michael.Millar@oeb.ca).

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

**DATED** at Toronto, **November 10, 2022**

**ONTARIO ENERGY BOARD**

Nancy Marconi  
Registrar