



DECISION ON MOTION TO REVIEW CONFIDENTIALITY DECISION

EB-2022-0157

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

BEFORE: Patrick Moran
Presiding Commissioner

David Sword
Commissioner

Anthony Zlahtic
Commissioner

December 1, 2022

The Motion

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

On October 19, 2022 Enbridge Gas requested that certain information contained in technical conference undertakings JT1.21, JT1.23, JT1.33 and JT2.1 be granted confidential treatment. With respect to undertakings JT1.21 and JT1.23, Enbridge Gas requested that certain rows on two tables be kept confidential to protect commercially sensitive information about a customer. On November 1, 2022 the OEB issued a Decision on Confidentiality approving the confidential treatment of JT1.33 and JT2.1, but denying Enbridge Gas's request for confidential treatment of JT1.21 and JT1.23. The Decision on Confidentiality noted that Enbridge Gas had not provided any basis to support its assertion that the disclosure of this information could prejudice competitive positions or interfere with ongoing negotiations.

On November 8, 2022, Enbridge Gas filed a motion to review the Decision on Confidentiality pursuant to section 5.1.15 of the OEB's *Practice Direction on Confidential Filings*. Enbridge Gas requested that the OEB reverse its decision relating to some of the information provided in JT1.21 and JT1.23. In its motion, Enbridge Gas provided information to support the request for the confidential treatment of these undertakings. Enbridge Gas acknowledged that it had not provided sufficient information in its initial request.

Findings

The undertaking responses JT1.21 and JT1.23 contain information on Panhandle System design day demand incremental volumes expressed in m³/hour (JT1.21) and in TJ/day (JT1.22), for winter 2019/2020 and 2020/2021 and forecast from winter 2021/2022 to winter 2030/203. The information is itemized by customer category for General Service, Greenhouse, Power Generators and Large Commercial/Industrial. Enbridge Gas requested that information on volumes and timing for Greenhouse and Large Commercial/Industrial categories be redacted and kept confidential so as not to

disclose commercially sensitive information – the timing and volume of incremental demand - about an individual customer. Enbridge Gas has now provided a sufficient explanation of the rationale for confidential treatment of the Greenhouse and Large Commercial/Industrial categories. Enbridge Gas has demonstrated how the information in the undertakings, when combined with other information already on the public record in this proceeding, could reveal the timing and volume of incremental demand for an individual customer. In its submission on the motion, Enbridge Gas has also reported that the customer has asserted that the information in question is considered by the customer to be commercially sensitive.

The OEB has considered the motion and the additional information provided by Enbridge Gas. The OEB grants the motion and will treat the information relating to the Greenhouse and Large Commercial/Industrial categories in undertakings JT1.21 and JT.23 on a confidential basis.

It is important that a party requesting confidential treatment of information provides a proper basis upon which to assess the request. In this case, valuable adjudication time was spent addressing an unsubstantiated request followed by a review motion that provided the information that should have been provided in the first instance.

THE ONTARIO ENERGY BOARD ORDERS:

1. Enbridge Gas's request for the confidential treatment of the demand forecast volumes and timing for Greenhouse Contract customer category and for Large Commercial/Industrial customer category contained in its responses to technical conference undertakings JT1.21 and JT1.23 is granted. The redacted information in these exhibits shall only be provided to individuals that have signed and filed a Declaration and Undertaking.

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.

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- 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.

DATED at Toronto December 1, 2022

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar