



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. 4

December 14, 2022

Enbridge Gas Inc. (Enbridge) 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 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.

Proceeding to Date

The OEB issued the Notice of Hearing on July 4, 2022, and Procedural Order No. 1 on August 12, 2022. Procedural Order No. 1 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 requested an extension to file its written responses to undertakings to October 19, 2022. To accommodate Enbridge's extension request, the OEB issued Procedural Order No. 2 on October 14, 2022. Procedural Order No. 2 set the schedule for the remainder of the written hearing including: granting the extension to Enbridge to file undertaking responses, filing of intervenor evidence and Enbridge's reply evidence, written discovery on intervenor and Enbridge's reply evidence, filing of the argument-in-chief, filing of OEB staff and intervenor written submissions and filing of Enbridge's reply submission.

On November 2, 2022 Enbridge requested a further extension to the procedural timeline established in Procedural Order No. 2. Enbridge proposed new dates to file its reply to Environmental Defence's evidence and to file its written reply submission in response to intervenors' and OEB staff's submissions.

The OEB accepted Enbridge's extension request and revised the schedule for the remainder of the proceeding in Procedural Order No. 3, issued on November 10, 2022. In accordance with the updated schedule written discovery on Environmental Defence's evidence and on Enbridge's reply evidence was completed on November 28, 2022. Enbridge's responses to supplementary questions by Three Fires Group were also filed on November 28, 2022.

Pursuant to the Procedural Order No. 3, Enbridge was to file its argument-in-chief by December 5, 2022.

Abeyance Request

By way of a letter, filed on December 5, 2022, Enbridge advised the OEB that, due to unexpected circumstances, it was not in a position to file its argument-in-chief and requested that the OEB place the application in abeyance.

Enbridge explained that, in a competitive procurement process for the Project construction, it received new cost information that may materially increase the estimated cost of the Project and therefore additional time is needed to update or amend the evidence.

Enbridge requested that the application be placed in abeyance until updates to the evidence are available. Enbridge expected to file updates to the evidence by mid-February 2023 and noted that it would inform the OEB at the earliest opportunity if additional time would be required.

Enbridge observed that, since the argument phase of the written hearing has not started, approval of the abeyance request would be of limited prejudice to other parties in the proceeding.

The OEB received a letter dated December 8, 2022 from IGUA, and letters dated December 9, 2022 from FRPO and Environmental Defence, responding to Enbridge's request. All three intervenors raise concerns about the economics of the project and whether contributions in aid of construction from customers should be required. A letter dated December 12, 2022 was received from Pollution Probe raising a concern about whether customers needed to be notified.

The OEB approves Enbridge's request to place the application in abeyance. The application will be held in abeyance until such time as the OEB receives updated information from Enbridge, and the OEB issues a new procedural schedule. The OEB will assess the updated application and determine what procedural steps are appropriate.

Regarding the issues raised by IGUA, FRPO and Environmental Defence, the OEB is of the view that the economics of the project, the applicability of EBO 134 and EBO 188, and the extent to which contributions in aid of construction should be required are issues that are in scope for this proceeding. Enbridge may wish to consider whether to provide additional evidence on those issues as part of its proposed update to its application. Enbridge may also wish to consider whether it should be communicating with potentially affected customers regarding the position of some parties that contributions in aid of construction should be required.

Enbridge has indicated that it expects to file no later than mid-February 2023. The OEB expects Enbridge to confirm by February 1, 2023 the date by which it will file its amended application.

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's application is in abeyance as of December 5, 2022. The application will remain in abeyance until Enbridge files the amended application and the OEB issues a new procedural schedule. The amended application must comply with the filing requirements set in the *OEB Natural Gas Facilities Handbook* and *OEB Rules of Practice and Procedure* and should include updated exhibits and responses to interrogatories and undertakings where those are materially affected by the amended application.
2. No later than February 1, 2023 Enbridge shall confirm the date it expects to file its amended application.

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, **December 14, 2022**

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar