



Enbridge Gas Inc.

**Application for leave to construct natural gas pipeline and
associated facilities in the Tyendinaga Mohawk Territory
and the Township of Tyendinaga, Hastings County.**

**PROCEDURAL ORDER NO. 3 AND DECISION ON CONFIDENTIALITY
May 23, 2023**

Enbridge Gas Inc. (Enbridge Gas) has filed an application with the Ontario Energy Board (OEB) 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 17.3 kilometres of natural gas pipeline and associated facilities in the Tyendinaga Mohawk Territory and the Township of Tyendinaga, Hastings County. The proposed natural gas pipeline consists of approximately 2.8 kilometres of Nominal Pipe Size (NPS) 4-inch polyethylene (PE) distribution pipeline, and approximately 14.5 kilometres of NPS 2-inch PE distribution pipeline. According to Enbridge Gas the project is needed to supply natural gas to approximately 151 customers in the community of Mohawks of the Bay of Quinte and approximately 28 customers in the community of Shannonville in the Township of Tyendinaga. 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 project.

The project was selected to be eligible to receive funding assistance as part of Phase 2 of the Government of Ontario's Natural Gas Expansion Program (NGEP), which provides financial support to help utilities expand natural gas distribution into communities that are not currently connected to the natural gas system.

Pursuant to Procedural Order No. 1, OEB staff and intervenors filed written interrogatories on Enbridge Gas's evidence by April 11, 2023. On April 20, 2023, the OEB approved Enbridge Gas's request to extend the date for filing responses to interrogatories from April 21, 2023 to May 2, 2023.

Decision on Environmental Defence's Request to File Intervenor Evidence

On March 9, 2023, Environmental Defence filed with the OEB a letter indicating that it proposed to file evidence comparing the costs for an average customer in the relevant

communities to convert their existing heating systems to electric heat pumps relative to the cost of converting to natural gas.¹

On April 17, 2023, the OEB issued a Decision on Intervenor Evidence and Confidentiality. In that decision, the OEB denied Environmental Defence's request to file evidence. Among other reasons, the OEB stated that it "finds that the impact of cold climate heat pumps, and relevance to, the economics of the proposed natural gas expansion projects may be explored without the necessity of the Environmental Defence evidence, but rather through interrogatories or by further discovery or follow-up as the OEB may require."

Environmental Defence Filed Supplemental Interrogatories

Environmental Defence filed a letter on April 25, 2023, indicating its intent to file supplemental interrogatories pursuant to the OEB's decision.

On April 28, 2023, Environmental Defence filed its supplemental interrogatories.

On May 1, 2023, Enbridge Gas filed a letter in which it submitted that Environmental Defence misinterpreted the OEB's ruling on Environmental Defence's proposed evidence and that the OEB would have made specific provision for supplemental interrogatories as part of its ruling if it had intended to do so. Enbridge Gas further stated that it should not be required to respond to Environmental Defence's supplemental interrogatories until after the responses to the original interrogatories are filed and only if the OEB, after consideration of those responses, determines additional discovery is required.

Written Discovery to Date

Enbridge Gas filed its responses to the original interrogatories on May 2, 2023. In the cover letter Enbridge Gas indicated that it would file an update to its response to Environmental Defence's original interrogatory I.ED.16 part e) no later than May 31, 2023.

By letter dated May 9, 2023, Pollution Probe suggested that the supplemental interrogatory phase wait until after Enbridge Gas files its update to I.ED.16 part e) on

¹ Environmental Defence's proposed evidence relates to three community expansion projects section 90 and 97 applications currently before the OEB: Selwyn Pipeline Community Expansion Project, EB-2022-0156; Mohawks of the Bay of Quinte and Shannonville Community Expansion Project, EB-2022-0248; Hidden Valley Community Expansion Project, EB-2022-0249. All three projects are eligible for the NGEP funding by the Ontario government.

May 31, 2023. On May 16, 2023, Enbridge Gas filed a letter responding to Pollution Probe's suggestion. Enbridge Gas explained that the updated response will include a final report commissioned by Enbridge Gas which examines the performance and operational costs of all-electric and hybrid heat pump systems for a typical Ontario home. Enbridge Gas confirmed that it expected to file this update and updates to any impacted original interrogatory responses no later than May 31, 2023. Enbridge Gas agreed with Pollution Probe's suggestion and stated that it will not respond to supplemental interrogatories until the OEB, after consideration of Enbridge Gas's initial and updated interrogatory responses, determines if additional discovery is required.

Enbridge Gas also submitted that the process of any additional discovery, if necessary, should be limited to a single round of interrogatories and responses. Regarding the scope of any additional discovery, Enbridge Gas submitted that it should be limited to the issue of the cost-effectiveness of high-efficiency electric cold climate air-source heat pumps.

On May 18, 2023, Enbridge Gas filed updated responses to the following original responses to Environmental Defence interrogatories:

- EB-2022-0156/EB-2022-0248/EB-2022-0249 Exhibit I.ED.15.

Findings

Pending the filing of Enbridge Gas's update to I.ED.16 part e) and any updates to other interrogatory responses impacted by the update, and in accordance with the OEB's [Protocol for Adjusting Adjudicative Timelines](#), the OEB will place Enbridge Gas's application in abeyance as of April 21, 2023. The OEB will resume processing the application upon receipt of Enbridge Gas's updated evidence. The OEB expects Enbridge Gas's update be filed with the OEB no later than May 31, 2023. If there is a significant delay, the OEB will further consider how best to proceed with the processing of the application.

Following the review of Enbridge Gas's updated interrogatory responses, if any party wishes to file submissions on the need for supplemental interrogatories (including Environmental Defence with respect to its proposed supplemental interrogatories from April 28), it shall file their written submission with the OEB no later than June 7, 2023. Parties filing the submission should also describe the purpose of their intended supplemental interrogatories. The OEB notes that the scope of supplemental interrogatories, if any, shall be limited to the cost-effectiveness of high-efficiency electric cold climate air-source heat pumps.

After reviewing the updated material from Enbridge Gas and any submissions from parties, the OEB will make its determination on the need for further discovery.

Requests for Confidentiality of Certain Interrogatory Responses

Enbridge Gas requested confidential treatment for personal information at the following interrogatory response:

- Exhibit I.ED.2, Attachment 2

Findings

The OEB has reviewed Enbridge Gas's request for the redaction of personal information contained in the noted interrogatory response. The OEB finds that the redacted information at Exhibit I.ED.2 (Attachment 2) is personal information as defined in the *Freedom of Information and Protection of Privacy Act* (FIPPA) and OEB's Practice Direction on Confidential Filings (Practice Direction). This information, which contains names, contact information, and addresses of property owners, shall remain redacted and shall not be provided to parties to the proceeding.

At this time, 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 an update to the evidence no later than **May 31, 2023**.
2. Any party wishing to file a submission on the need for supplemental interrogatories shall file its written submission and include whether it intends to file supplemental interrogatories no later than **June 7, 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-2022-0248** 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, **May 23, 2023**

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar